

# Exhibit

# A

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

HELENA AGRI-ENTERPRISES, LLC,

CASE NO. 1:18-CV-00963-RJJ-RSK

Plaintiff,

v.

Honorable Chief Judge Robert J. Jonker

GREAT LAKES GRAIN, LLC; BOERSEN  
FARMS AG, LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY, BOERSEN  
FARMS, INC. A MICHIGAN  
CORPORATION, BOERSEN AG  
PARTNERS, LLC, A MICHIGAN LIMITED  
LIABILITY COMPANY, DENNIS  
BOERSEN, ARLAN BOERSEN, SANDRA  
BOERSEN,

**PROPOSED REPLY BRIEF IN SUPPORT  
OF PLAINTIFF'S MOTION TO COMPEL  
BOERSEN DEFENDANTS TO EXECUTE  
AUTHORIZATIONS REQUIRED FOR  
PRODUCTION OF DOCUMENTS  
SUBPOENAED FROM GREAT  
AMERICAN INSURANCE GROUP**

Defendants.

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Sheryl L. Toby (P39114)  
Mark J. Magyar (P75090)  
Dykema Gossett PLLC  
Attorneys for Plaintiff  
300 Ottawa Ave. N.W. Suite 700  
Grand Rapids, Michigan 49503  
stoby@dykema.com  
mmagyar@dykema.com  
616-776-7500

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Ronald J. VanderVeen (P33067)  
Cunningham Dalman, PC  
Attorneys for Defendants  
321 Settlers Road  
Holland, MI 49423  
rjvv@cunninghamdalman.com  
616-392-1821

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**ARGUMENT**

Defendants misconstrue and misinterpret the basis for Plaintiff's Subpoenas and the great relevance of the requested information to the pending claims in this dispute, so much so that a reply is needed to accurately state the facts currently before this Court. Further, Defendants entirely ignore Plaintiff's well-establish authority that permits this Court to compel execution of the requested authorizations.

Notably, from a timing perspective, Plaintiff's Motion to Compel was filed on March 3, 2020, almost one month ago. If Defendants had executed the requested authorizations (or even contacted Plaintiff's counsel to negotiate language for the authorizations), Plaintiff would likely already be in possession of the Great American Insurance documents<sup>1</sup> to which it is entitled and this Court would not have to resolve the issues raised in Plaintiff's Motion to Compel.

The crop insurance documents from Great American play an important role in framing the potential claims that remain pending in this case. This is a dispute between agricultural companies. Defendants may attempt to minimize the role that crop insurance plays in *their* business, but countless cases<sup>2</sup> show that crop insurance, and the production history insurers use for the underwriting process to approve or issue crop insurance, is a valuable asset to farmers across the country. In fact, so valuable that many farmers across the country have been convicted or held liable for falsifying crop insurance applications or abusing the process.<sup>3</sup>

Plaintiff timely issued the subpoenas before discovery closed and Defendants have not put forth any legitimate basis to refuse Plaintiff's request for these documents. Accordingly, Plaintiff's Motion to Compel should be granted and Defendants should be compelled to execute the requested authorizations.

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<sup>1</sup> Great American's in-house counsel and outside counsel informed Plaintiff in January that the documents were ready to produce and that they just needed the Defendants' authorizations to release them.

<sup>2</sup> See, e.g., *United States v. Kuehnemund*, 208 F. App'x 371, 372-73 (6th Cir. 2006) (farmer convicted for making false statements to various reinsurers working on behalf of the USDA's Federal Crop Insurance Corporation); *United States v. Larry Reed & Sons, P'ship*, 280 F.3d 1212, 1214 (8th Cir. 2002) (partnership found liable for submitting false crop insurance claims); *United States v. John Hudson Farms, Inc.*, No. 7:18-CV-7-FL, 2018 U.S. Dist. LEXIS 148030, at \*1-6 (E.D.N.C. 2018) (family farming entity found to have falsely purported to be separate, individual farming operation in numerous forms and applications provided to the USDA Risk Management Agency's FCIC).

<sup>3</sup> See *id.*

**A. Contrary to Prior Testimony and Judicial Admissions, Defendants Now Admit to Using Actual Production History From Prior Boersen Entities.**

Defendants' Response judicially admits that "[New Heights Farm I] was assigned the APH for Boersen Farms Grain." *See* Response, Dkt. 158, p. 3. Defendants have previously judicially admitted that New Heights Farm I and New Heights Farm II can use the APH for Boersen Farms Grain because "an owner of [New Heights Farm I and New Heights Farm II] had an interest in [Boersen Farms Grain] and was involved in the actual production of crops". *See* Defendants' Brief Opposing Plaintiff's Motion for Discovery Dkt. 150, p. 6. And yet, Stacy Boersen testified at her deposition that she was not involved in the farming operation of Boersen Farms Grain and did nothing more than small tasks:

13 Q. But you didn't manage --

14 A. No.

15 Q. -- Boersen Farms Grain? You didn't do the farming  
16 work, right? Other than I think we talked about  
17 the -- was there corn --

18 A. Yeah.

19 Q. Yeah.

20 A. And, you know, I might have ran parts to the field or  
21 also, maybe a seed tender, that kind of thing.

2 Q. So whether we're talking about the farm -- a defined  
3 Boersen party or any other entity on earth, it would  
4 be the same testimony; that you weren't the manager or  
5 owner or controller or farmer of that entity, because  
6 you start with Great Lakes Grain in 2018; is that  
7 right?

8 A. Just what my involvement was in the Boersen Farms  
9 Grain.

10 Q. Right, which we've talked about.

11 A. But I wasn't a manager, no.

12 Q. Of any farm?

13 A. I -- I -- yeah, I performed small farming functions  
14 for Boersen Farms Grain.

*See* Deposition of Stacy Boersen, 50:13 – 51:14, attached hereto as Exhibit 1.

Nicholas Boersen testified that he does not know which of the Boersen entities he worked for in any capacity due to the manner in which the businesses were run:

5 Q. Okay. Were you -- did you ever work for Great Lakes  
6 Grain in any capacity?  
7 A. I really don't know where the companies kind of fell  
8 in line. I stopped getting paid after Boersen Farms  
9 Ag, basically. So I don't really know where the  
10 companies ever switched hand, because I never kept  
11 track of that.

*See* Deposition of Nicholas Boersen, 16:5 – 11, attached hereto as Exhibit 2. Based on his judicial admissions in the Response, it appears that sometime between Nicholas Boersen's deposition on January 15, 2020 and the date of the Response on March 17, 2020, Nicholas Boersen learned that New Heights Farm II utilized the APH information of Boersen Farms Ag, LLC. The fact that Nicholas had no knowledge of that fact a mere sixty days prior is evidence of the exact "sleight of hand" that Helena has been seeking to uncover throughout this litigation.

Notably, neither Nicholas nor Stacy were able to provide any details at their depositions about whether or how New Heights Farm I, New Heights Farm II or any of the Great Lakes Grain entities were qualified under the requisite federal regulations to utilize any of the other Boersen entities' APH. If Defendants are going to stand firm on their argument that the New Heights Farm and Great Lakes Grain entities were authorized to utilize other Boersen entities' APH under the pertinent federal regulations, Helena is entitled to understand how and why the Successor Defendants are qualified to do so.

This is especially in this case where the legitimacy of the divisions and transactions between the Judgment Defendants and Successor Defendants is vitally important. As further described in Plaintiff's Motion the law closely scrutinizes transactions between family members

when the rights of creditors are involved. If APH information was improperly used between Boersen entities, such use would not only be a violation of federal regulations, it also would serve as evidence for Plaintiff's claim in this proceeding that Defendants are operating as a mere continuation of the Judgment Boersen entities.

Finally, in response to Defendants' assertions that APH is not an asset, the authority Plaintiff has provided this Court establishes that APH is considered a valuable asset for any grower because the higher a farmer's APH, the better insurance coverage that farmer can obtain. Defendants have not provided any authority to the contrary and their mere "ipse dixit" stating otherwise is not sufficient.

**B. If Defendants' Use of Another Boersen Entity's APH Occurred Without Meeting all the Requirements, Defendants Violated Federal Law.**

Nicholas Boersen testified that New Heights Farm II qualified under what he called the "Young Farmer" program, which presumably is the Beginning Farmer and Rancher Program. *See* Deposition of Nicholas Boersen, Ex. 2, 8:6 – 23. Nicholas, however, was unable to identify how or why New Heights Farm II qualified for this program. *See id.*

The federal regulations related to Beginning Farmer and Rancher Benefits for crop insurance are very specific and abundantly clear. Further, false representations in crop insurance applications is a violation of federal criminal law. Promulgated by the Risk Management Agency, the crop insurance regulations require the following to qualify for Beginning Farmer or Rancher status:

- The farmer must be an individual. Business entities qualify only if all of the individuals with a 10 percent or more interest are beginning farmers or ranchers.

- For example, if a son moves home and forms a corporation with a parent who has had an insurance interest in crops or livestock for more than five years, the entity cannot receive Beginning Farmer and Rancher benefits.
- The farmer must not have actively operated or managed a farm or ranch anywhere with an insurance interest in any crop or livestock for more than five years.

Participation in the Beginning Farmer and Rancher Benefits provides substantial benefits designed to help new farmers start their operations. These benefits include:

- Exemption from paying the certain insurance administrative fees;
- Additional 10 percentage points of premium subsidy for additional coverage; and
- An increase in the substitute Yield Adjustment, which allows the new farmer to replace a low yield due to an insured cause of loss, from 60 to 80 percent of the applicable transitional yield (T-Yield).

*See* 7 CFR § 400, et. al. The details of this program are important because, contrary to Defendants' continued assertions otherwise, the Beginning Farmer and Rancher Program provides obvious financial benefits both in exemption from fees and in additional and better insurance coverage based on the use of another entity's production history. Accordingly, it is entirely incorrect for the Defendants to assert that APH is not a valuable asset and Defendants, as experienced growers from a farming family, should know better. And yet, Defendants continue to claim that the use of another entity's APH provided no value to them.

Additionally, through their testimony and judicial admissions, Nicholas and Stacy Boersen have both denied the requisite participation in the Legacy Boersen entities needed to legitimately use the Legacy Boersen entities' APH information under the Beginning Farmer and Rancher Program. Accordingly, the question remains about whether or not Defendants

submitted the false information and abused the federal crop insurance program to continue the Boersen family farming enterprise.

The process to qualify for the Beginning Farmer and Rancher Program requires a farmer to submit all of the required information to the crop insurance company prior to submission of the farmer's crop insurance application. If the information is not provided as required, the farmer is not qualified to be part of the Beginning Farmer and Rancher program and therefore cannot use another entity's APH information without violating the federal crop insurance regulations. The subpoenas to Great American that require Defendants' executed authorizations include requests for the crop insurance applications and other documents that would show whether Nicholas Boersen or New Heights Farm II provided false information when they submitted their crop insurance applications for the Great Lakes Grain and New Heights Farm entities.

Stacy Boersen specifically denied that New Heights Farm I and Great Lakes Grain utilized the Beginning Farmer and Rancher Program. *See* Deposition of Stacy Boersen, Ex. 1, 57:18 – 22. She was unable to testify, however, as to why New Heights Farm I and Great Lakes Grain would have qualified to use the APH information from another Boersen entity. *See id.*, 56:55:12 – 56:21. Accordingly to her testimony, she just trusted her agent to secure the crop insurance and submit whatever she needed to submit to accomplish the task. *See id.* And yet, Defendants' Response contains a judicial admission that New Heights Farm I was assigned the APH for Boersen Farms Grain without any explanation or why or how New Heights Farm I would have qualified to use the APH information.

Based on Defendants' judicial admissions and testimony from Nicholas and Stacy Boersen, there already exists a question about whether or not Defendants made



misrepresentations to the Risk Management Agency in their crop insurance applications or have received the Beginning Farmer and Rancher Program benefits or any other program benefits without properly qualifying for the programs. The documents Plaintiff timely subpoenaed from Great American will provide additional detail about these facts that relate specifically to Plaintiff's current claims against Defendants. If Defendants represented themselves to the Risk Management Agency as a mere continuation of the Legacy Boersen entities and were able to utilize the APH information on that basis, such evidence goes directly to Plaintiff's claim that Defendants are operating as a mere continuation of the Legacy Boersen entities. Plaintiff is entitled to discovery such knowledge.

**C. The Information Requested in the Subpoenas Are Relevant to Plaintiff's Claims In this Dispute.**

As further described in Plaintiff's Motion to Compel, the scope of discovery under the Federal Rules of Civil Procedure is "quite broad." *See Sharper v. Wal-Mart Stores, Inc.*, No. 17-12980, 2018 U.S. Dist. LEXIS 74023, at \*1 (E.D. Mich. 2018) (citing *Lewis v. ACB Bus. Servs.*, 135 F.3d 389, 402 (6th Cir. 1998)). In construing the scope of discovery, courts are encouraged to permit all relevant evidence which bears upon any part of the controversy or dispute. *See Fischer v. Cirrus Design Corp.*, No. 5:03-CV-0782, 2005 U.S. Dist. LEXIS 31353, at \*25 (N.D.N.Y. 2005). "Mutual knowledge of all relevant facts gathered by both parties is essential to proper litigation." *See Hickman v. Taylor*, 329 U.S. 495, 501 (1947).

Based on the broad scope of relevance under the federal rules and authority from this Circuit, there can be no question that the documents Plaintiff subpoenaed from Great American are relevant to Plaintiff's claims in this dispute.

Due to federal regulations, Great American is required to obtain authorizations or an order from a Court to provide the documents requested by Plaintiff. There is support for

requiring parties, such as Defendants, to provide a signed authorization in order to give another party, such as Plaintiff, access to relevant discovery materials. *See Fischer*, 2005 U.S. Dist. LEXIS 31353, at \*22. Despite such authority, Defendants continue to refuse to provide the authorizations that are inarguably relevant to Plaintiff's claims and discoverable in this dispute.

**D. Plaintiff's Subpoenas Were Timely. It is Defendants' Failure to Cooperate Has Caused the Delay.**

Defendants' assertion that Plaintiff's Motion should be denied merely because discovery is closed is wholly inapplicable to the analysis based on the procedural history of this case. At the outset, the Subpoenas were issued in November 2019 before discovery closed. The fact that it is now March and we are still fighting about authorizations is now the fault of Defendants, not Plaintiff.

As Plaintiff has demonstrated in its prior pleadings, including its Brief in Support Plaintiff's Motion to Amend the Case Management Order (RE 128) (the "Motion"), Plaintiff has been diligently working over the past six months to discover the relevant facts related to Plaintiff's claims, including obtaining documents from government agencies to whom Defendants report crop information to determine whether Plaintiff may have claims related to Defendants' reporting or lending practices or against other third parties.

Throughout this entire discovery process, Defendants have wholly refused to comply with Plaintiff's requests to make the process more efficient or timely. For example, Plaintiff waited two weeks without any response from Defendants for authorizations to be executed to obtain documents from the Risk Management Agency ("RMA") and Farm Services Agency ("FSA"). Plaintiff did not receive the authorizations until after Magistrate Judge Kent required Defendants to sign the documents in order to expedite the process. Despite the fact that Defendants have been previously instructed to provide authorization, Defendants are refusing to

do so again now. As to documents relevant to crop insurance, Plaintiff respectfully disagrees with Defendants' contention that they have been cooperating with discovery and that it has been Plaintiff who is the source of the delay. This is just flat wrong.

**CONCLUSION AND PRAYER**

Plaintiff Helena Agri-Enterprises, LLC respectfully requests that this Court: (1) grant Helena's Motion and compel Defendants to execute the authorizations necessary for Plaintiff to obtain documents from Great American Insurance; (2) grant leave for Plaintiff to extend the discovery deadline for the purpose of obtaining documents from Great American Insurance Group if its Motion to Amend the Third Case Management Order is denied and for any additional discovery that is necessary based on its review of those documents; and (3) grant such further relief as the Court deems just.

Dated: March 31, 2020

Respectfully submitted,

**DYKEMA GOSSETT PLLC**

By: /s/ Mark J. Magyar

Sheryl L. Toby (P39411)

Mark J. Magyar (P75090)

300 Ottawa Ave. N.W., Suite 700

Grand Rapids, MI 49503

stoby@dykema.com

mmagyar@dykema.com

**JACKSON WALKER LLP**

By: /s/ Robert L. Soza, Jr.

Robert L. Soza, Jr. (admitted *pro hac vice*)

Texas State Bar No. 18869300

112 E. Pecan, Suite 2400

San Antonio, Texas 78205

rsoza@jw.com

**ATTORNEYS FOR PLAINTIFF**

# Exhibit

# 1

**In the Matter Of:**

HELENA AGRI-ENTERPRISES, LLC vs vs GREAT LAKES GRAIN, LLC, ET AL.

STACY BOERSEN

January 15, 2020

*Prepared for you by*



**Bingham Farms/Southfield • Grand Rapids**

Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw • Troy

BOERSEN, STACY

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<p style="text-align: right;">Page 1</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF MICHIGAN</p> <p>3 SOUTHERN DIVISION</p> <p>4</p> <p>5 HELENA AGRI-ENTERPRISES, LLC,</p> <p>6 a Delaware limited liability</p> <p>7 company,</p> <p>8 Plaintiff,</p> <p>9 vs. Case No. 1:18-cv-00963-RJJ-RSK</p> <p>10 Hon. Robert J. Jonker</p> <p>11 GREAT LAKES GRAIN, LLC, a</p> <p>12 Michigan limited liability</p> <p>13 company; GREAT LAKES GRAIN II,</p> <p>14 LLC, a Michigan limited</p> <p>15 liability company; GREAT LAKES</p> <p>16 III, LLC, a Michigan limited</p> <p>17 liability company; GREAT LAKES</p> <p>18 IV, LLC, a Michigan limited</p> <p>19 liability company; NEW HEIGHTS</p> <p>20 FARM I, LLC, a Michigan limited</p> <p>21 liability company; NEW HEIGHTS</p> <p>22 FARM II, LLC, a Michigan limited</p> <p>23 liability company; STACY BOERSEN,</p> <p>24 individually and as putative</p> <p>25 member of the Great Lakes Grain</p>	<p style="text-align: right;">Page 3</p> <p>1 RONALD J. VANDER VEEN</p> <p>2 Cunningham Dalman, P.C.</p> <p>3 321 Settlers Road</p> <p>4 Holland, Michigan 49423</p> <p>5 (616) 392-1821</p> <p>6 rjvv@cunninghamdalman.com</p> <p>7 Appearing on behalf of the Defendants.</p> <p>8</p> <p>9 ALSO PRESENT:</p> <p>10 Nicholas Boersen</p> <p>11 Robert Soza (via telephone)</p> <p>12 Amanda Crouch (via telephone)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 defendants and New Heights Farm I,</p> <p>2 LLC; and NICHOLAS BOERSEN,</p> <p>3 individually and as putative</p> <p>4 member of New Heights Farm, II, LLC,</p> <p>5 Defendants.</p> <p>6 _____</p> <p>7</p> <p>8</p> <p>9 The Deposition of STACY BOERSEN,</p> <p>10 Taken at 321 Settlers Road,</p> <p>11 Holland, Michigan,</p> <p>12 Commencing at 9:01 a.m.,</p> <p>13 Wednesday, January 15, 2020,</p> <p>14 Before Peggy S. Savage, CSR-4189, RPR.</p> <p>15</p> <p>16 APPEARANCES:</p> <p>17</p> <p>18 MARK J. MAGYAR</p> <p>19 Dykema Gossett, P.L.L.C.</p> <p>20 300 Ottawa Avenue, N.W.</p> <p>21 Suite 700</p> <p>22 Grand Rapids, Michigan 49503</p> <p>23 (616) 776-7500</p> <p>24 mmagyar@dykema.com</p> <p>25 Appearing on behalf of the Plaintiff.</p>	<p style="text-align: right;">Page 4</p> <p>1 TABLE OF CONTENTS</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 STACY BOERSEN</p> <p>5</p> <p>6 EXAMINATION BY MR. MAGYAR 5</p> <p>7</p> <p>8 EXHIBITS</p> <p>9</p> <p>10 EXHIBIT PAGE</p> <p>11 (Exhibits attached to transcript.)</p> <p>12</p> <p>13 DEPOSITION EXHIBIT 1 15</p> <p>14 DEPOSITION EXHIBIT 2 17</p> <p>15 DEPOSITION EXHIBIT 3 53</p> <p>16 DEPOSITION EXHIBIT 4 64</p> <p>17 DEPOSITION EXHIBIT 5 69</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 5</p> <p>1 Holland, Michigan</p> <p>2 Wednesday, January 15, 2020</p> <p>3 9:01 a.m.</p> <p>4</p> <p>5 STACY BOERSEN,</p> <p>6 was thereupon called as a witness herein, and after</p> <p>7 having first been duly sworn or affirmed to testify to</p> <p>8 the truth, the whole truth and nothing but the truth,</p> <p>9 was examined and testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. MAGYAR:</p> <p>12 Q. Good morning.</p> <p>13 A. Good morning.</p> <p>14 Q. My name is Mark Magyar. We just met each other before</p> <p>15 we went on the record, right?</p> <p>16 A. Yes.</p> <p>17 MR. MAGYAR: A couple of preliminary</p> <p>18 matters for the record. One, Ron, you and I can</p> <p>19 probably fight about this later, but just for the</p> <p>20 record, we're waiting on a subpoena we've done to your</p> <p>21 insurance, Great American Insurance Company, some</p> <p>22 documents we've requested. We had proposed that we</p> <p>23 postpone these depositions if we could get an</p> <p>24 agreement that they could be conducted even after</p> <p>25 discovery period. We did not reach that agreement.</p>	<p style="text-align: right;">Page 7</p> <p>1 BY MR. MAGYAR:</p> <p>2 Q. Have you been deposed before?</p> <p>3 A. No.</p> <p>4 Q. No? A couple of real quick, general guidelines for a</p> <p>5 deposition.</p> <p>6 Every response has to be oral and spoken so</p> <p>7 that the court reporter can take it down. She can't</p> <p>8 really do shrugs or nods or mmm-hmm, so just make</p> <p>9 everything an oral statement.</p> <p>10 Do you understand?</p> <p>11 A. I do.</p> <p>12 MR. VANDER VEEN: I always like it when</p> <p>13 they answer that question with nodding their head.</p> <p>14 MR. MAGYAR: Exactly. That was my fault.</p> <p>15 I didn't actually finish with a question.</p> <p>16 BY MR. MAGYAR:</p> <p>17 Q. And then if you have any questions or you don't</p> <p>18 understand what question I've asked at any time, you</p> <p>19 can clarify. You can ask to speak with your counsel</p> <p>20 if you need a break. The only kind of rules of the</p> <p>21 road when it comes to that is if I have a question</p> <p>22 pending, you should answer it before taking any breaks</p> <p>23 or leaving the room.</p> <p>24 Does that make sense?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 6</p> <p>1 We're reserving the right to seek to redepose the</p> <p>2 deponents today, if necessary, based on not being able</p> <p>3 to reach that agreement. You may have an opposition</p> <p>4 to that, but I just want to put that on the record.</p> <p>5 The other objection I just want to place on</p> <p>6 the record is I would note for the record that two</p> <p>7 parties are here. Both are listed to be deponents</p> <p>8 today -- one in the morning; one in the afternoon --</p> <p>9 Defendants Stacy Boersen and Nicholas Boersen. I</p> <p>10 understand counsel's position from conversations</p> <p>11 before going on the record that because they're</p> <p>12 parties, they can be present. I've advised them that</p> <p>13 I believe that the testimony and the nature of the</p> <p>14 issues that overlap that it would not be appropriate</p> <p>15 to have one party listening to the other party's</p> <p>16 testimony and then giving testimony. Counsel has</p> <p>17 refused to have Nicholas Boersen leave the room, and</p> <p>18 so I'm placing my objection to that on the record now.</p> <p>19 With that, I think we're ready to get</p> <p>20 started.</p> <p>21 THE WITNESS: Sure.</p> <p>22 MR. VANDER VEEN: Just one other</p> <p>23 preliminary matter, and that is that Stacy reserves</p> <p>24 the right to review the transcript and to sign off on</p> <p>25 it once it's been prepared.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Standard deposition question -- I think I'm going to</p> <p>2 take it out of my repertoire. It's so ridiculous.</p> <p>3 But are you on any like medication or drugs or</p> <p>4 anything else that would inhibit you from providing</p> <p>5 accurate or truthful testimony or recalling things</p> <p>6 today?</p> <p>7 A. No.</p> <p>8 Q. I think that's about it. The only other thing is your</p> <p>9 counsel may lodge objections today, which is perfectly</p> <p>10 normal and he's entitled to do that. Only if he tells</p> <p>11 you not to answer, which is usually only based on a</p> <p>12 privilege objection, should you not answer.</p> <p>13 Otherwise, he's only making his objections for the</p> <p>14 record, but then you still answer my question.</p> <p>15 Does that make sense?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So you understand, you're here today in some</p> <p>18 litigation that's pending to which you're a party;</p> <p>19 my -- my client is the plaintiff, Helena</p> <p>20 Agri-Enterprises, LLC, right?</p> <p>21 A. Yes.</p> <p>22 Q. And that's -- not that you have it memorized, but Case</p> <p>23 Number 1:18-cv-963, in the Western District of</p> <p>24 Michigan.</p> <p>25 There was a mediation, and I think you</p>



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<p>1 attended yesterday; is that right?</p> <p>2 <b>A. I can -- I attended a mediation. I don't know the</b></p> <p>3 <b>case number.</b></p> <p>4 Q. And do you understand that the parties, among others,</p> <p>5 in that case include yourself personally, your son</p> <p>6 Nicholas Boersen, Great Lakes Grain, LLC -- well,</p> <p>7 let's take it one at a time.</p> <p>8 Yourself personally?</p> <p>9 <b>A. I understand.</b></p> <p>10 Q. And your son Nicholas --</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. -- who's here?</p> <p>13 Great Lakes Grain, LLC?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And entities having similar names by II, III, and IV,</p> <p>16 Great Lakes Grain, LLC?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. As well as New Heights Farms I, LLC?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And New Heights Farm II, LLC?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And you understand that those are the parties in this</p> <p>23 action that there is currently no judgment against;</p> <p>24 the litigation is proceeding with?</p> <p>25 <b>A. That's correct.</b></p>	<p>1 names wrong, so I'm going to find the exact paragraph.</p> <p>2 So in addition to Boersen Farms, Inc. that we already</p> <p>3 talked about, there's Boersen Farms Ag, LLC?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And Boersen Farms Partners, LLC?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And Boersen -- let's see. Boersen Farms Properties,</p> <p>8 LLC?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And do you understand that each of those -- and if</p> <p>11 it's okay with you, do you understand if I refer to</p> <p>12 all of those -- Dennis, Arlan, Sandra, Boersen Farms,</p> <p>13 Inc. -- all of those Boersen corporate entities that</p> <p>14 we've just talked about, as the Boersen parties? Will</p> <p>15 you understand what I mean?</p> <p>16 <b>A. I will, as long as it excludes New Heights I and II.</b></p> <p>17 Q. It does.</p> <p>18 <b>A. And Great Lakes Grain.</b></p> <p>19 Q. Under that definition --</p> <p>20 <b>A. Okay.</b></p> <p>21 Q. -- just the parties that have stipulated to a judgment</p> <p>22 in this lawsuit.</p> <p>23 <b>A. Mmm-hmm.</b></p> <p>24 MR. VANDER VEEN: Just a second here,</p> <p>25 though. You did talk over each other at one point as</p>
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<p>1 Q. Okay. Do you also understand that in the same</p> <p>2 litigation, there are -- or were other defendants that</p> <p>3 have consented to judgment?</p> <p>4 <b>A. Yes.</b></p> <p>5 Q. And, I guess, we can do it in the same manner with</p> <p>6 those parties.</p> <p>7 Those would include Boersen Farms, Inc.,</p> <p>8 correct?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And Dennis Boersen?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And is that your husband?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Okay. And Arlan Boersen?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And who is Arlan?</p> <p>17 <b>A. My father-in-law.</b></p> <p>18 Q. So Dennis' father?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. Okay. And Sandra Boersen?</p> <p>21 <b>A. My -- yes.</b></p> <p>22 Q. Okay.</p> <p>23 <b>A. My mother-in-law, Dennis' mom.</b></p> <p>24 Q. Dennis' mom.</p> <p>25 Okay. And then I don't want to get these</p>	<p>1 she said "Great Lakes Grain." Did you get that down</p> <p>2 as part of her answer?</p> <p>3 MR. MAGYAR: Now, I'm sorry, I don't</p> <p>4 understand that. I'm not including Great Lakes Grain</p> <p>5 in my question. I'm only including the parties that</p> <p>6 have stipulated to a judgment in this case.</p> <p>7 <b>THE WITNESS: Okay.</b></p> <p>8 MR. MAGYAR: That's what I mean by "Boersen</p> <p>9 parties."</p> <p>10 MR. VANDER VEEN: No, you had asked her</p> <p>11 about the parties, and she said as long as it doesn't</p> <p>12 include New Heights Farm I and II, and then you</p> <p>13 started another question while she started finish- --</p> <p>14 MR. MAGYAR: Well, I think I just</p> <p>15 clarified --</p> <p>16 MR. VANDER VEEN: Yeah.</p> <p>17 MR. MAGYAR: -- because Great Lakes Grain</p> <p>18 hasn't stipulated to a judgment.</p> <p>19 MR. VANDER VEEN: Right.</p> <p>20 MR. MAGYAR: Okay.</p> <p>21 MR. VANDER VEEN: But her answer included</p> <p>22 Great Lakes Grain. I just want to make sure the</p> <p>23 record is accurate on that.</p> <p>24 BY MR. MAGYAR:</p> <p>25 Q. So if I refer to the "legacy Boersen parties," it's</p>

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<p style="text-align: right;">Page 13</p> <p>1 the same as the Boersen parties, just those ones that</p> <p>2 have stipulated to judgment. Does that --</p> <p>3 <b>A. Okay.</b></p> <p>4 Q. -- make sense?</p> <p>5 Okay. All right. What is your involvement</p> <p>6 or what was your involvement, if any, in the Boersen</p> <p>7 corporate parties? I'm not talking about, obviously,</p> <p>8 individuals, like Arlan, Sandra, and Dennis, but the</p> <p>9 Boersen property entities that we just defined.</p> <p>10 <b>A. So I worked for them for probably ten years. I</b></p> <p>11 <b>started just doing some basic cleaning, the offices,</b></p> <p>12 <b>opening mail, basic payroll duties, and that really</b></p> <p>13 <b>never changed. Did some bookkeeping for them as far</b></p> <p>14 <b>as entering bills, that kind of thing.</b></p> <p>15 Q. Okay. Did you ever manage any of those entities?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Did you ever perform any of the, I guess, manual or</p> <p>18 farming labor for any of those entities?</p> <p>19 <b>A. Not -- I dried some corn for them.</b></p> <p>20 Q. Okay. For --</p> <p>21 <b>A. Just checking dryers during the night.</b></p> <p>22 Q. For all of them or any in particular?</p> <p>23 <b>A. Boersen Farms Grain.</b></p> <p>24 Q. Okay. Which I don't know that that's even one of the</p> <p>25 parties.</p>	<p style="text-align: right;">Page 15</p> <p>1 <b>A. Dennis was 10 percent owner of Great Lakes Grain.</b></p> <p>2 Q. Okay. Now, besides Dennis' 10 percent, any other</p> <p>3 involvement or ownership or control of Great Lakes</p> <p>4 Grain, LLC by any of the Boersen parties besides</p> <p>5 Dennis Boersen?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. And just to kind of finish up on what we're --</p> <p>8 well, maybe not finish, but to further what we're</p> <p>9 talking about, I'm going to show you what you had</p> <p>10 previously filed as your affidavit on May 21, 2019.</p> <p>11 MR. MAGYAR: I guess we can mark that as</p> <p>12 Exhibit 1.</p> <p>13 MARKED FOR IDENTIFICATION</p> <p>14 DEPOSITION EXHIBIT 1</p> <p>15 9:10 a.m.</p> <p>16 BY MR. MAGYAR:</p> <p>17 Q. Let me know when you've had a chance to look through</p> <p>18 that.</p> <p>19 MR. MAGYAR: Can we go off the record for</p> <p>20 just one second?</p> <p>21 (Off the record at 9:11 a.m.)</p> <p>22 (Back on the record at 9:12 a.m.)</p> <p>23 BY MR. MAGYAR:</p> <p>24 Q. So you've had a chance to review the affidavit?</p> <p>25 <b>A. I did.</b></p>
<p style="text-align: right;">Page 14</p> <p>1 <b>A. It's not.</b></p> <p>2 Q. Okay. And so I've just asked you about your</p> <p>3 involvement with those entities.</p> <p>4 On the inverse, what is any Boersen party's</p> <p>5 involvement with, let's say, New Heights Farms I, LLC?</p> <p>6 <b>A. None.</b></p> <p>7 MR. VANDER VEEN: And just to be clear,</p> <p>8 "Boersen party," you mean Arlan, Sandy, and Dennis</p> <p>9 again?</p> <p>10 MR. MAGYAR: Yes.</p> <p>11 MR. VANDER VEEN: Okay. Thank you.</p> <p>12 MR. MAGYAR: Yep.</p> <p>13 <b>THE WITNESS: None.</b></p> <p>14 MR. MAGYAR: None.</p> <p>15 BY MR. MAGYAR:</p> <p>16 Q. And what about, if you know, New Heights Farms II,</p> <p>17 LLC?</p> <p>18 <b>A. None.</b></p> <p>19 Q. And what about Great Lakes Grain IV, LLC?</p> <p>20 <b>A. None.</b></p> <p>21 Q. And Great Lakes Grain III, LLC?</p> <p>22 <b>A. None.</b></p> <p>23 Q. And Great Lakes Grain II, LLC?</p> <p>24 <b>A. None.</b></p> <p>25 Q. And Great Lakes Grain, LLC?</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. And this is an affidavit you submitted in this</p> <p>2 litigation on or about May 21st of 2019?</p> <p>3 I'm just looking at the file date. It</p> <p>4 looks like maybe you signed it on the 14th.</p> <p>5 <b>A. Yes, it's signed on the 14th.</b></p> <p>6 Q. And as I understand this affidavit, it relates to all</p> <p>7 of the Great Lakes Grain entities other than the</p> <p>8 original Great Lakes Grain, LLC; is that right?</p> <p>9 <b>A. That's correct.</b></p> <p>10 Q. Okay. And you say in it that these three entities</p> <p>11 were organized at your direction with the intent to</p> <p>12 seek financing, at least part of what they were</p> <p>13 organized for; is that right?</p> <p>14 <b>A. That's correct.</b></p> <p>15 Q. And what was the financing you were seeking with those</p> <p>16 entities, even whether or not it came to fruition?</p> <p>17 <b>A. I was seeking a line of credit to be able to do</b></p> <p>18 <b>farming operations.</b></p> <p>19 Q. Okay. And that was for what year?</p> <p>20 <b>A. 2018, I believe.</b></p> <p>21 Q. Well, I think the original Great Lakes Grain received</p> <p>22 financing and farmed for 2018; is that correct?</p> <p>23 <b>A. We didn't receive financing.</b></p> <p>24 Q. No. Did Great Lakes -- the original Great Lakes Grain</p> <p>25 ever receive any financing?</p>

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<p style="text-align: right;">Page 17</p> <p>1 <b>A. No.</b></p> <p>2 Q. Did it farm?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. For what year?</p> <p>5 <b>A. 2018.</b></p> <p>6 Q. All right. And how was it able to do that?</p> <p>7 <b>A. There was an agreement with Farmland Capital</b></p> <p>8 <b>Solutions.</b></p> <p>9 Q. Okay. Well, I guess while we're talking about that,</p> <p>10 let me see if we're talking about the same agreement.</p> <p>11 MR. MAGYAR: I'm marking Exhibit 2.</p> <p>12 MARKED FOR IDENTIFICATION</p> <p>13 DEPOSITION EXHIBIT 2</p> <p>14 9:14 a.m.</p> <p>15 BY MR. MAGYAR:</p> <p>16 Q. I've marked Exhibit 2, which is a document labeled</p> <p>17 "Agreement" at the top, and it says that it's made as</p> <p>18 of May 29, 2018, as the effective date.</p> <p>19 Do you see that?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Is this the agreement you're talking about, in terms</p> <p>22 of an agreement with Farmland Capital Solutions, that</p> <p>23 the original Great Lakes Grain was entered into to be</p> <p>24 able to farm for 2018?</p> <p>25 <b>A. That's correct.</b></p>	<p style="text-align: right;">Page 19</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Sandy Boersen?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Who's Sandy Boersen?</p> <p>5 <b>A. It says Sandra L. Boersen, also known as Sandy.</b></p> <p>6 Q. Oh, okay. Thank you for clarifying that. I was</p> <p>7 making sure -- I didn't know who it was -- I wasn't</p> <p>8 missing somebody.</p> <p>9 And then Dennis Boersen is a party, right?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And he's also one who stipulated to judgment in this</p> <p>12 case?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And Ross Boersen is a party?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And then Great Lakes Grain, LLC is a party?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. And Zeeland Property Investments, LLC is a party?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And Ceres Farms, LLC is a party, right?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Who is Ceres Farms, LLC?</p> <p>23 <b>A. Ceres Farms is part of the Farmland Capital Solutions.</b></p> <p>24 <b>They are a company that buys land and rents it to</b></p> <p>25 <b>several different farmers.</b></p>
<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. Well, let's look at the first paragraph of who</p> <p>2 the parties are to this agreement.</p> <p>3 Boersen Farms, Inc., right?</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. And Boersen Farms Properties, LLC, right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And Boersen Farms Ag, LLC, right?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. And those first three that we've named are part of</p> <p>10 what we already defined as the Boersen parties who</p> <p>11 have stipulated to judgment in this case, right?</p> <p>12 <b>A. Correct.</b></p> <p>13 Q. And then there's also a Boersen Farms Grain?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And a Boersen Land Company, LLC?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And a Boersen Transport, Inc.?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Then it goes on to some individuals. There's Arlan</p> <p>20 Boersen, correct?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And Sandra Boersen?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. And those two, as we've discussed, are also Boersen</p> <p>25 parties that have stipulated to judgment in this case?</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Okay. And I believe this agreement sets out just what</p> <p>2 you just said, that Farmland Capital Solutions is --</p> <p>3 or Ceres Farms, LLC is an owner or the sole member of</p> <p>4 Farmland Capital Solutions; is that accurate?</p> <p>5 <b>A. To the best of my knowledge.</b></p> <p>6 Q. Okay. And how was it, generally, that this agreement</p> <p>7 made it so that Great Lakes Grain could farm the 2018</p> <p>8 crop year without independent financing?</p> <p>9 <b>A. Generally, the agreement gave Great Lakes Grain the</b></p> <p>10 <b>ability to farm the acres available from Ceres, and</b></p> <p>11 <b>they held their rent until the end of the year so that</b></p> <p>12 <b>we could farm those acres.</b></p> <p>13 Q. Okay. Now, on the recitals here, in Recital D, it</p> <p>14 says: Great Lakes Grain, LLC is a recently organized</p> <p>15 Michigan limited liability company, which is owned</p> <p>16 and/or controlled by some or all of the Boersen</p> <p>17 parties. Do you see that?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. And the Boersen parties are defined, up in that first</p> <p>20 paragraph that we went through, as basically every --</p> <p>21 every person or entity with the name Boersen in it; so</p> <p>22 not including Great Lakes Grain, LLC or Zeeland</p> <p>23 Property Investment, LLC or Ceres Farms, LLC; is that</p> <p>24 right?</p> <p>25 <b>A. Well, it says "by some or all," so ...</b></p>

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<p style="text-align: right;">Page 21</p> <p>1 Q. I just asked who -- when it says "Boersen parties" in</p> <p>2 Recital D, it's referring to every Boersen entity</p> <p>3 listed or individual listed in that first paragraph,</p> <p>4 right?</p> <p>5 <b>A. I -- I don't believe so. I don't read it that way.</b></p> <p>6 Q. All right. Well, let's look at that first paragraph,</p> <p>7 kind of in the middle, right -- right before it says:</p> <p>8 Great Lakes Grain, LLC.</p> <p>9 <b>A. Mmm-hmm.</b></p> <p>10 Q. Do you see where it says: Boersen parties, in</p> <p>11 parentheses?</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. And it's saying that the foregoing parties are</p> <p>14 collectively referred to as the Boersen parties?</p> <p>15 <b>A. The foregoing.</b></p> <p>16 Q. Right.</p> <p>17 <b>A. Great Lakes Grain is listed after that.</b></p> <p>18 Q. I'm asking about just anything that says "Boersen" in</p> <p>19 it --</p> <p>20 <b>A. Okay.</b></p> <p>21 Q. -- in this first paragraph, whether it's a person or</p> <p>22 an individual -- not Great Lakes Grain, not Zeeland</p> <p>23 Property, not Ceres -- that's who the Boersen parties</p> <p>24 are?</p> <p>25 <b>A. Correct.</b></p>	<p style="text-align: right;">Page 23</p> <p>1 The same page, just right above that</p> <p>2 Recital F, on Recital E, it says: Zeeland Property</p> <p>3 Investments, LLC -- and then it uses the same language</p> <p>4 as the paragraph we just looked at -- is a recently</p> <p>5 organized Michigan limited liability company, which is</p> <p>6 owned and controlled by some or all of the Boersen</p> <p>7 parties.</p> <p>8 Is that paragraph also inaccurate?</p> <p>9 MR. VANDER VEEN: Objection. You said</p> <p>10 "inaccurate"? The other paragraph was not inaccurate.</p> <p>11 She's testified that it was accurate.</p> <p>12 MR. MAGYAR: You can object. We don't need</p> <p>13 speaking objections, and especially if you're leaving</p> <p>14 in two hours, but you can object.</p> <p>15 MR. VANDER VEEN: I'm not leaving in two</p> <p>16 hours. The deposition is going to be adjourned in two</p> <p>17 hours.</p> <p>18 MR. MAGYAR: Well, there's going to be a</p> <p>19 two-hour break.</p> <p>20 MR. VANDER VEEN: Right.</p> <p>21 MR. MAGYAR: So I'd rather limit the</p> <p>22 speaking objections so I can get through my</p> <p>23 questioning.</p> <p>24 MR. VANDER VEEN: But you need to</p> <p>25 accurately state what the --</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Okay. So going back down to Recital D, I do -- I</p> <p>2 understand that Dennis Boersen, under your testimony,</p> <p>3 was a 10 percent minority owner in the original Great</p> <p>4 Lakes Grain.</p> <p>5 Who else are the some or all of those</p> <p>6 Boersen parties, if any, that own or control Great</p> <p>7 Lakes Grain, LLC?</p> <p>8 <b>A. None.</b></p> <p>9 Q. So -- so your testimony is that Recital D could have</p> <p>10 said, instead of what it says, instead of some or all,</p> <p>11 it could have just said: Only Dennis and Stacy</p> <p>12 Boersen own or control Great Lakes Grain, LLC?</p> <p>13 <b>A. I would agree.</b></p> <p>14 Q. That would have been more accurate?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Did you tell anyone that that should be clarified? It</p> <p>17 might give the wrong impression that there's more</p> <p>18 involvement by Boersens than just you and Dennis?</p> <p>19 <b>A. I did not.</b></p> <p>20 Q. But you signed this agreement, right?</p> <p>21 <b>A. Correct.</b></p> <p>22 Q. And then in Recital F, second -- next page of the same</p> <p>23 document, it says: The Boersen parties, Great Lakes</p> <p>24 Grain, LLC -- well, I'm sorry. Let's move up to</p> <p>25 Recital E. I don't want to skip over.</p>	<p style="text-align: right;">Page 24</p> <p>1 MR. MAGYAR: Make an objection --</p> <p>2 MR. VANDER VEEN: I did.</p> <p>3 MR. MAGYAR: -- without speaking, okay?</p> <p>4 Thanks. Because I disagree with you.</p> <p>5 <b>THE WITNESS: What was the question?</b></p> <p>6 BY MR. MAGYAR:</p> <p>7 Q. The question was, with the objection on the record, is</p> <p>8 Recital E inaccurate, as well?</p> <p>9 <b>A. I don't know.</b></p> <p>10 Q. All right. Who are the Boersen -- the some or all of</p> <p>11 the Boersen parties who own or control Zeeland</p> <p>12 Property Investments, LLC?</p> <p>13 <b>A. I don't know.</b></p> <p>14 Q. What is Zeeland Property Investments, LLC?</p> <p>15 <b>A. I don't know.</b></p> <p>16 Q. So you wouldn't be one of the owners or controllers of</p> <p>17 that entity?</p> <p>18 <b>A. I don't believe so.</b></p> <p>19 Q. Okay. And the next paragraph, the next recital</p> <p>20 paragraph F, it says: The Boersen parties, the Great</p> <p>21 Lakes Grain, LLC and Zeeland Property Investments, LLC</p> <p>22 desire and have requested that Ceres enter into a</p> <p>23 number of leases with Great Lakes, which will allow</p> <p>24 Great Lakes to lease and farm certain farms owned by</p> <p>25 Ceres. And I'll just stop there, because there's a</p>

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<p style="text-align: right;">Page 25</p> <p>1 semicolon there.</p> <p>2 Is it your understanding that those</p> <p>3 entities all desired and were seeking these leases so</p> <p>4 that Great Lakes could farm certain farms?</p> <p>5 <b>A. That all the parties were trying to lease the land; is</b></p> <p>6 <b>that what you're saying?</b></p> <p>7 Q. Well, it's saying that Boersen Farms --</p> <p>8 <b>A. I know that my -- my part, the Great Lakes Grain,</b></p> <p>9 <b>desired to lease the property from Ceres, correct.</b></p> <p>10 Q. Okay. Do you have any insight as to why all of these</p> <p>11 Boersen parties desired to have Ceres enter into the</p> <p>12 leases with Great Lakes?</p> <p>13 <b>A. I can't speak for the other parties, no.</b></p> <p>14 Q. Have you spoken to anyone about this agreement that</p> <p>15 was a Boersen party?</p> <p>16 <b>A. No.</b></p> <p>17 Q. Did you speak with your husband about this agreement?</p> <p>18 He's a Boersen party, right?</p> <p>19 <b>A. Correct.</b></p> <p>20 Q. Okay. So you have no idea why any of the Boersen</p> <p>21 parties would indicate their desire for this agreement</p> <p>22 that's listed here in Recital F?</p> <p>23 <b>A. Besides Dennis, as part of Great Lakes Grain.</b></p> <p>24 Q. Right. But where it says, "the Boersen parties</p> <p>25 desire," amongst the others who desired, you don't</p>	<p style="text-align: right;">Page 27</p> <p>1 owned by some or all of the Boersen parties.</p> <p>2 Do you see that first sentence?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Do you -- do you have any knowledge about that being</p> <p>5 the case in terms of Ceres having some security</p> <p>6 interests of equipment owned by any Boersen party?</p> <p>7 <b>A. I don't have knowledge of that, no.</b></p> <p>8 Q. Okay. So you wouldn't know, when it says "some or</p> <p>9 all," once again, what Boersen parties we're talking</p> <p>10 about?</p> <p>11 <b>A. No.</b></p> <p>12 Q. But you have some leases with Boersen parties to lease</p> <p>13 some equipment, right?</p> <p>14 <b>A. For '18 and '19, we did, yes.</b></p> <p>15 Q. But you don't know whether any of that equipment</p> <p>16 you're leasing is the same equipment that's being</p> <p>17 talked about here?</p> <p>18 <b>A. I do not know.</b></p> <p>19 Q. The second sentence talks about financial</p> <p>20 accommodations that Ceres is giving the Boersen</p> <p>21 parties under this agreement.</p> <p>22 Do you see that?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. What -- what are those financial accommodations?</p> <p>25 <b>A. I can speak as to Great Lakes Grain.</b></p>
<p style="text-align: right;">Page 26</p> <p>1 know why they desired that?</p> <p>2 <b>A. No.</b></p> <p>3 Q. And just to confirm, when we looked at the back of</p> <p>4 this agreement, that is signed by all the Boersen</p> <p>5 parties, right?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. What benefit would a Boersen party receive out of</p> <p>8 signing on to this agreement?</p> <p>9 <b>A. None.</b></p> <p>10 Q. Were any debts owed by Boersen parties being paid to</p> <p>11 Ceres as a result of this agreement?</p> <p>12 <b>A. I don't believe so.</b></p> <p>13 Q. Were any revenue as a result of crops farmed by Great</p> <p>14 Lakes Grain, LLC, in 2018, used under this agreement</p> <p>15 to pay Ceres for debts owed by Boersen parties?</p> <p>16 <b>A. No.</b></p> <p>17 Q. If you flip ahead to the same agreement, now I'm on</p> <p>18 paragraph 14 called "Equipment."</p> <p>19 Go ahead and take -- it's kind of a lengthy</p> <p>20 paragraph that goes just a little bit onto the next</p> <p>21 page. So go ahead and take a moment, if you would, to</p> <p>22 read that. Let me know when you've had a chance.</p> <p>23 <b>A. Okay.</b></p> <p>24 Q. First sentence says that: Ceres and/or Farmland</p> <p>25 Capital has security interest in security equipment</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. I'd like you to speak as a party to this contract that</p> <p>2 you signed, if you would.</p> <p>3 <b>A. My only part in this contract was under Great Lakes</b></p> <p>4 <b>Grain. So I can speak to the knowledge I know about</b></p> <p>5 <b>my company, Great Lakes Grain.</b></p> <p>6 Q. All right. Does it tell me somewhere in here that</p> <p>7 you're only signing and you can only speak about an</p> <p>8 agreement you're signing as to only portions of it?</p> <p>9 MR. VANDER VEEN: You're talking about like</p> <p>10 the signature line?</p> <p>11 MR. MAGYAR: I'm asking if there's a</p> <p>12 portion in the contract that the witness can point to</p> <p>13 me that disclaims or -- or makes her a party to only</p> <p>14 portions of it.</p> <p>15 THE WITNESS: Well, I mean, I signed for</p> <p>16 Great Lakes Grain. I did not sign for any of the</p> <p>17 other Boersen parties. Great Lakes Grain is all I</p> <p>18 signed for.</p> <p>19 BY MR. MAGYAR:</p> <p>20 Q. Okay. But you're a party to the entire agreement,</p> <p>21 right?</p> <p>22 <b>A. I am a party to the agreement, yes.</b></p> <p>23 Q. And those other parties that we're talking about</p> <p>24 included your husband and your mother-in-law and your</p> <p>25 father-in-law, right?</p>

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<p style="text-align: right;">Page 29</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And if we go back to Recital F, which was the second</p> <p>3 page of the document, it again talks about to provide</p> <p>4 the Boersen parties and Great Lakes -- this is the</p> <p>5 second to the last line -- certain financial</p> <p>6 accommodations which will allow Great Lakes to produce</p> <p>7 farm crops on such farms in 2018.</p> <p>8 Do you see that?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. So I would ask you again if you understand, based on</p> <p>11 being a party to this contract, what is meant by</p> <p>12 "financial accommodations"?</p> <p>13 <b>A. I understand what is meant by financial accommodations</b></p> <p>14 <b>to Great Lakes Grain, which was postponing rent due</b></p> <p>15 <b>that year so that we were able to farm, and so I was</b></p> <p>16 <b>able to farm in 2018.</b></p> <p>17 Q. And why was Ceres agreeing -- or what consideration</p> <p>18 was Ceres getting for the postponement of rent?</p> <p>19 <b>A. What consideration?</b></p> <p>20 Q. Yeah.</p> <p>21 <b>A. I mean --</b></p> <p>22 Q. Why did Ceres agree to postpone to make that, as it</p> <p>23 says, financial accommodation?</p> <p>24 <b>A. I guess that would be a question for them.</b></p> <p>25 Q. You don't have an understanding as being a contracting</p>	<p style="text-align: right;">Page 31</p> <p>1 at regarding equipment.</p> <p>2 Do you know whether Ceres -- and I'm</p> <p>3 looking in the second sentence -- Ceres or Farmland</p> <p>4 ever released or paid over proceeds from the sale of</p> <p>5 any equipment that it had a security interest on?</p> <p>6 <b>A. I don't know. Great Lakes Grain never owned</b></p> <p>7 <b>equipment.</b></p> <p>8 Q. What equipment did Great Lakes Grain use?</p> <p>9 <b>A. It rented equipment.</b></p> <p>10 Q. From who?</p> <p>11 <b>A. From Boersen Farms &amp; Affiliates.</b></p> <p>12 Q. So if we looked at those leases, you would have</p> <p>13 knowledge of that as one of the -- from Great Lakes</p> <p>14 Grain's perspective, the party renting the equipment,</p> <p>15 right?</p> <p>16 <b>A. I had a lease with Great -- or with Boersen Farms &amp;</b></p> <p>17 <b>Affiliates to rent equipment.</b></p> <p>18 Q. And we're just talking about for Great Lakes Grain,</p> <p>19 right, right now?</p> <p>20 <b>A. (Nodded head.)</b></p> <p>21 MR. VANDER VEEN: You have to answer</p> <p>22 verbally.</p> <p>23 <b>THE WITNESS: Yes. Sorry.</b></p> <p>24 BY MR. MAGYAR:</p> <p>25 Q. So let's move beyond the 2018 crop year.</p>
<p style="text-align: right;">Page 30</p> <p>1 partner with them in this agreement?</p> <p>2 MR. VANDER VEEN: Objection, characterizes</p> <p>3 her as a partner with Ceres, and she's not a partner</p> <p>4 in Ceres.</p> <p>5 MR. MAGYAR: I don't need -- I said</p> <p>6 "contracting partner," not a partner in Ceres, and</p> <p>7 your objection alone will do. Thank you.</p> <p>8 <b>THE WITNESS: Can you repeat the question,</b></p> <p>9 <b>please?</b></p> <p>10 BY MR. MAGYAR:</p> <p>11 Q. So you don't understand, as a party to this agreement,</p> <p>12 what would have motivated Ceres to make that financial</p> <p>13 accommodation?</p> <p>14 <b>A. I just know that I met with them. It was a lot of</b></p> <p>15 <b>ground, for them, to stand idle in the year if -- if I</b></p> <p>16 <b>did not farm it, and so that was -- they were going to</b></p> <p>17 <b>get paid no matter what on the land rent, because they</b></p> <p>18 <b>had a lien on my crop. And so I'm assuming that</b></p> <p>19 <b>rather than having their land stand idle for 2018,</b></p> <p>20 <b>that many acres, that that is why they chose to</b></p> <p>21 <b>postpone rent.</b></p> <p>22 Q. Okay. So what's the point of the Boersen parties</p> <p>23 being signatories to this agreement?</p> <p>24 <b>A. I don't know.</b></p> <p>25 Q. Now, back to that paragraph 14 that we started to look</p>	<p style="text-align: right;">Page 32</p> <p>1 Has Great Lakes Grain, the original, farmed</p> <p>2 in any subsequent year?</p> <p>3 <b>A. After 2018?</b></p> <p>4 Q. Right.</p> <p>5 <b>A. There was maybe around 2,000 acres of winter wheat</b></p> <p>6 <b>that was planted in 2018. Technically, the profit</b></p> <p>7 <b>comes in in 2019.</b></p> <p>8 Q. Okay. Was the actual farming done in 2018?</p> <p>9 <b>A. The actual planting of the crop?</b></p> <p>10 Q. Yeah. Yeah.</p> <p>11 <b>A. It's harvested in the spring, though, of 2019.</b></p> <p>12 Q. Okay. After that, anything more by Great Lakes Grain?</p> <p>13 <b>A. No.</b></p> <p>14 Q. And why not?</p> <p>15 <b>A. We -- I mean, we couldn't get financing in Great Lakes</b></p> <p>16 <b>Grain. I could not secure a finance year in Great</b></p> <p>17 <b>Lakes Grain.</b></p> <p>18 Q. And was that based on this lawsuit, is that why, or</p> <p>19 are there other reasons?</p> <p>20 <b>A. Yeah, some -- yeah. Yes.</b></p> <p>21 Q. And was that -- we talked earlier about the Great</p> <p>22 Lakes Grain II, III, and IV entities.</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Was that how they came into the mix, to try to obtain</p> <p>25 the financing that the original Great Lakes Grain</p>



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<p style="text-align: right;">Page 33</p> <p>1 wasn't obtaining?</p> <p>2 <b>A. Yeah. I started those companies in order to hopefully</b></p> <p>3 <b>get a line of credit but was unable to.</b></p> <p>4 Q. Okay. And why were those parties not able to?</p> <p>5 <b>A. Part because of the lawsuits.</b></p> <p>6 Q. Were they too --</p> <p>7 <b>A. Or this lawsuit.</b></p> <p>8 Q. Did anyone tell you that it was too similar to the</p> <p>9 original Great Lakes Grain that was a party to the</p> <p>10 suit or anything like that?</p> <p>11 <b>A. Not that I recall.</b></p> <p>12 Q. So why were they unsuccessful, those entities, the</p> <p>13 Great Lakes Grain II, III, IV, in getting the</p> <p>14 financing?</p> <p>15 <b>A. I would say partly because of this lawsuit.</b></p> <p>16 Q. Okay. But if it's because of this lawsuit but not</p> <p>17 because they sound like the defendant Great Lakes</p> <p>18 Grain, then why do you think it's because of this</p> <p>19 lawsuit?</p> <p>20 <b>A. Because, I mean, that's a huge lawsuit on a new</b></p> <p>21 <b>company, 15 million dollars.</b></p> <p>22 Q. Right. But I think what I'm understanding you saying</p> <p>23 is that these were new companies; they weren't the</p> <p>24 original Great Lakes Grain, right?</p> <p>25 <b>A. That's correct. I owned them solely myself.</b></p>	<p style="text-align: right;">Page 35</p> <p>1 of this lawsuit, right?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. And I'm trying to understand why, then, this lawsuit</p> <p>4 impeded those which were not, at the time, yet parties</p> <p>5 to the case and nor were you, why -- why you believe</p> <p>6 that impeded them from getting financing?</p> <p>7 <b>A. I can only speak as to the lender, potential lender,</b></p> <p>8 <b>said because of the lawsuits. So that is all I can</b></p> <p>9 <b>speak to. He did not say whether it was related to</b></p> <p>10 <b>the sounding of the name, like you're suggesting, or</b></p> <p>11 <b>anything like that. He did not say.</b></p> <p>12 Q. Okay. So if we move forward then, you were able to</p> <p>13 create an entity that did get financing called New</p> <p>14 Heights Farms I, LLC, right?</p> <p>15 <b>A. That is correct.</b></p> <p>16 Q. What do you believe is the basis for New Heights being</p> <p>17 able to get financing where Great Lakes Grain II, III,</p> <p>18 and IV had previously been unsuccessful?</p> <p>19 <b>A. Well, I think we just found somebody that fit our</b></p> <p>20 <b>portfolio better. You know, Nick and I decided to go</b></p> <p>21 <b>off on our own. We did this on our own. Got our own</b></p> <p>22 <b>financing. These people that we are financed with, Ag</b></p> <p>23 <b>Resource Management, they are known for wanting to</b></p> <p>24 <b>help first-time farmers.</b></p> <p>25 Q. Okay. So they were not the ones who denied Great</p>
<p style="text-align: right;">Page 34</p> <p>1 Q. Okay. And so you're saying it's because of this</p> <p>2 litigation that they couldn't get financing.</p> <p>3 Is it because they were too close sounding</p> <p>4 in name to the original Great Lakes, or why -- why</p> <p>5 would this lawsuit impede Great Lakes Grain II, III,</p> <p>6 and IV from getting financing?</p> <p>7 <b>A. Well, because it's my name on the lawsuit. You're</b></p> <p>8 <b>suing me personally.</b></p> <p>9 Q. Well, I'm talking about at the time you were trying to</p> <p>10 get financing. So I think we need to have a time</p> <p>11 frame here. I don't think you were a party to the</p> <p>12 suit at that time, right?</p> <p>13 <b>A. Not personally, but Great Lakes Grain was.</b></p> <p>14 Q. Okay. But I think you just --</p> <p>15 <b>A. You added II, III, and IV maybe later.</b></p> <p>16 Q. Right.</p> <p>17 <b>A. Mmm-hmm.</b></p> <p>18 Q. Okay. And your testimony, while -- while you were not</p> <p>19 a party to the suit and only the original Great Lakes</p> <p>20 Grain was a party to the suit --</p> <p>21 <b>A. Mmm-hmm.</b></p> <p>22 Q. -- you attempted to get financing by Great Lakes Grain</p> <p>23 II, III, or IV --</p> <p>24 <b>A. That's correct.</b></p> <p>25 Q. -- and you said you couldn't because -- partly because</p>	<p style="text-align: right;">Page 36</p> <p>1 Lakes Grain II, III, and IV?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Okay. What, in your mind, was the motivation to, I</p> <p>4 guess, go through the rigamarole of a whole new entity</p> <p>5 in New Heights rather than, say, take Great Lakes</p> <p>6 Grain II, III, or IV on the road; after you were</p> <p>7 unsuccessful with one, take them to this other lender</p> <p>8 that you were successful with who wants to help new</p> <p>9 entities? What made you think you needed a new entity</p> <p>10 at that time?</p> <p>11 <b>A. So my son came to me after his first semester of</b></p> <p>12 <b>college, and it looked like he did not like school.</b></p> <p>13 <b>And he came to me and asked me if -- all he wanted to</b></p> <p>14 <b>do was farm. So we sat down and we brainstormed, and</b></p> <p>15 <b>I said I would help him any way I could.</b></p> <p>16 And we went out and got our own financing</p> <p>17 with ARM. Him and I sat down and brainstormed for a</p> <p>18 name; had really nothing to do with trying not to use</p> <p>19 Great Lakes Grain or anything like that, but we -- we</p> <p>20 came up with the name together.</p> <p>21 Q. Okay. So you didn't -- I mean, but, presumably, at</p> <p>22 the time, you still had these, for lack of a better</p> <p>23 word, shell companies that were already created and in</p> <p>24 existence, just sitting there doing nothing, right?</p> <p>25 <b>A. Correct.</b></p>

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<p style="text-align: right;">Page 37</p> <p>1 Q. So did you discuss with Nick at all --</p> <p>2 MR. MAGYAR: Do you go by Nick or Nicholas?</p> <p>3 MR. BOERSEN: Nick.</p> <p>4 BY MR. MAGYAR:</p> <p>5 Q. -- Nick just using one of those, or you --</p> <p>6 A. I really didn't discuss that with him.</p> <p>7 Q. Do you have to pay a fee to organize an LLC?</p> <p>8 A. No.</p> <p>9 Q. No?</p> <p>10 All right. I want to talk about crop</p> <p>11 insurance. Great Lakes Grain, the original for the</p> <p>12 2018 year, when it had the arrangement with Ceres to</p> <p>13 defer the rent, that was insured, right? It had crop</p> <p>14 insurance?</p> <p>15 A. Correct.</p> <p>16 Q. And who was that through?</p> <p>17 A. Great American Crop Insurance.</p> <p>18 Q. Okay. And what did you have to do to obtain that crop</p> <p>19 insurance?</p> <p>20 A. I called Chris Shellenbarger, who was my insurance</p> <p>21 agent, and she set it all up for me.</p> <p>22 Q. Okay. And do you remember what she had to do to set</p> <p>23 it up?</p> <p>24 A. I don't know what she did to set it up, no.</p> <p>25 Q. And what's your understanding of the purpose of crop</p>	<p style="text-align: right;">Page 39</p> <p>1 basic nature of the Great Lakes Grain. Is it</p> <p>2 different for these policies?</p> <p>3 A. So the -- the ARMtech is an added-on policy, and it's</p> <p>4 a band coverage; so it covers your yield, things like</p> <p>5 your test weights. It's -- it's just -- it's like an</p> <p>6 addition to your --</p> <p>7 Q. And what --</p> <p>8 A. -- regular crop insurance.</p> <p>9 Q. Okay. And what about that regular policy?</p> <p>10 A. It would be for the same -- all the same.</p> <p>11 Q. As what the -- as what the Great Lakes Grain was for</p> <p>12 2018?</p> <p>13 A. That one, I think New Heights II differs -- or New</p> <p>14 Heights Farms differ a little bit from what Great</p> <p>15 Lakes Grain is, but I would have to look at the</p> <p>16 policies exactly.</p> <p>17 Q. But you think it may have some differences; pretty</p> <p>18 similar, though?</p> <p>19 A. Yes.</p> <p>20 Q. And you obtained a lender for New Heights for the 2019</p> <p>21 crop year, right?</p> <p>22 A. Yes.</p> <p>23 Q. Who is that?</p> <p>24 A. Ag Resource Management.</p> <p>25 Q. And they, presumably -- we'll get into documents</p>
<p style="text-align: right;">Page 38</p> <p>1 insurance?</p> <p>2 A. It's to cover for crop disaster. It can cover for --</p> <p>3 for low yields, hail, rain, replants.</p> <p>4 Q. And what is your understanding of the types of crop</p> <p>5 insurance, or is that basically what you just</p> <p>6 described?</p> <p>7 A. Yeah, basically.</p> <p>8 Q. I mean, are there different types for -- depending on</p> <p>9 what type of disaster you just mentioned?</p> <p>10 A. I mean, you can buy -- it's just like -- you can buy</p> <p>11 all different types of crop insurance. As far as, you</p> <p>12 know, maybe you only buy crop insurance for a replant</p> <p>13 if you have too much rain; or you buy crop</p> <p>14 insurance -- you can buy all the way up to losing</p> <p>15 yields.</p> <p>16 Q. And what did -- what did Great Lakes Grain have for</p> <p>17 2018?</p> <p>18 A. It was just a basic municipal policy.</p> <p>19 Q. And what about New Heights Farms I, LLC for 2019, what</p> <p>20 insurance did it have, if any?</p> <p>21 A. We have Great American Crop Insurance and ARMtech.</p> <p>22 Q. And does the policy -- are those two different</p> <p>23 policies then?</p> <p>24 A. Correct.</p> <p>25 Q. And what did those cover? I think you described the</p>	<p style="text-align: right;">Page 40</p> <p>1 later. But just as a general matter, they have a</p> <p>2 security interest or a lien on the 2019 crop as part</p> <p>3 of that loan arrangement, right?</p> <p>4 A. The crop and the crop insurance.</p> <p>5 Q. And when you say that, you mean if you did have to</p> <p>6 make a claim because of some disaster, this lender</p> <p>7 would be entitled to the proceeds, the payout of the</p> <p>8 insurance; is that right?</p> <p>9 A. Correct, until they're paid off in full.</p> <p>10 Q. And I know you already said it, but I just want to</p> <p>11 make sure I understand it, who is your crop insurance</p> <p>12 company?</p> <p>13 A. Great American.</p> <p>14 Q. And your broker?</p> <p>15 A. Chris Shellenbarger.</p> <p>16 Q. Is that the same for both Great Lakes Grain, the</p> <p>17 original, and New Heights Farms I?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. What about New Heights Farms II?</p> <p>20 A. Are you asking me is it the same crop insurance?</p> <p>21 Q. Yes.</p> <p>22 A. Correct.</p> <p>23 Q. And are you an owner or manager of New Heights Farms</p> <p>24 II?</p> <p>25 A. No.</p>



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<p style="text-align: right;">Page 41</p> <p>1 Q. But it sounds like you have knowledge of the workings 2 of that entity?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And that's based on your collaboration with 5 your son or discussions with your son?</p> <p>6 A. Correct.</p> <p>7 Q. How were you introduced to Great American as -- as an 8 insurance company?</p> <p>9 A. Chris was doing insurance for Dennis for years; and so 10 when I took on Great Lakes Grain, I went to her.</p> <p>11 Q. Okay. So that was a relationship for insurance that 12 existed prior to Great Lakes Grain with the Boersen 13 parties?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Where are their offices, this Great American?</p> <p>16 A. I don't know where their office is. She's from like 17 Petoskey or some area.</p> <p>18 Q. Okay. What was your mode of communication, mostly? 19 Would you email? Call?</p> <p>20 A. I just pick up the phone and call her and ask -- you 21 know, told her to put the policies together and in 22 place. And for New Heights, then she worked pretty 23 directly with ARM to get the coverage that they 24 required for our line of credit.</p> <p>25 Q. Okay. And so with her being up there and you guys</p>	<p style="text-align: right;">Page 43</p> <p>1 A. It's reported to the crop insurance every year.</p> <p>2 Q. How do you collect it in order to be able to report 3 it?</p> <p>4 A. We have monitors that we can monitor what's going into 5 the combine on the properties, and we pull that data.</p> <p>6 Q. And I think you just answered my next question. To 7 whom is it reported? It's to the insurer. Anybody 8 else?</p> <p>9 A. I think the counties probably can have record to that, 10 too, the FSA offices.</p> <p>11 Q. And what effect, if any, does a farmer's APH have on 12 the ability to get crop insurance?</p> <p>13 A. None.</p> <p>14 Q. Will it affect the rates?</p> <p>15 A. The rates of the crop insurance?</p> <p>16 Q. Yeah.</p> <p>17 A. No.</p> <p>18 Q. So what is the -- if it doesn't affect the ability to 19 obtain rates, what is the purpose of the requirement 20 of APH?</p> <p>21 A. So an APH would be set on a field. So let's say I'm 22 farming a particular acre or farm, and the APH is, 23 just say, 180, which would be 180 bushel per acre. So 24 if I come in under that, then that would -- on that -- 25 on that farm, then that would trigger payment from the</p>
<p style="text-align: right;">Page 42</p> <p>1 talking by phone a lot, when she would need 2 information, documents, anything she may need for 3 the -- for the application process for the insurance, 4 how would you communicate that to her?</p> <p>5 A. Probably by email.</p> <p>6 Q. Now, I know you testified regarding this add-on 7 coverage for New Heights. Other than that, have you 8 worked with any other crop insurance companies?</p> <p>9 A. No.</p> <p>10 Q. But that is a separate company, this ARMtech, than --</p> <p>11 A. Yeah. I mean, Chris -- I mean, it's separate from the 12 Great American. It's called ARMtech.</p> <p>13 Q. Do they kind of specialize on these --</p> <p>14 A. Band coverage, correct.</p> <p>15 Q. Okay. Are you familiar with Actual Production 16 Histories?</p> <p>17 A. APHs, yes.</p> <p>18 Q. Sorry. I should have just said it that way. At least 19 we have, for the record, what that stands for.</p> <p>20 How is that information collected? Well, 21 actually, let's even scratch that question.</p> <p>22 What is an APH?</p> <p>23 A. It's the history of a certain amount of bushel that's 24 produced on a certain piece of property or farm.</p> <p>25 Q. And how is that information collected?</p>	<p style="text-align: right;">Page 44</p> <p>1 crop insurance.</p> <p>2 Q. All right. Well, then, I guess, maybe I'm getting 3 ahead of myself.</p> <p>4 Do you have to establish that that 180 is a 5 reasonable number or likely to be obtained in order 6 for an insurance company to say, you know, "Okay, 7 we'll pay you if you don't make it," or they just take 8 your word for it?</p> <p>9 A. I guess I don't understand your question.</p> <p>10 Q. Well, you said if you fall short of what your -- are 11 you saying that you basically have sort of estimates 12 of what's going to happen in the year for -- for your 13 crop; is that what you're saying when you talked about 14 the 180? An anticipated yield?</p> <p>15 A. Yeah, I mean, we always have anticipated yield.</p> <p>16 Q. I mean, I don't want to put words in your mouth. Help 17 me understand what you meant by the example with the 18 180.</p> <p>19 A. So, in other words, if -- if for some reason our 20 bushel on those acres fell below a certain percent of 21 what the APH is, then that would trigger a possible 22 loss on your crop insurance.</p> <p>23 Q. Okay. So the APH, when you talk about the 180, you're 24 talking about that was -- and, you know, usually 25 actual production history -- that was like the</p>

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<p style="text-align: right;">Page 45</p> <p>1 previous year of production?</p> <p>2 <b>A. Usually, it goes back, I believe, three -- three to</b></p> <p>3 <b>five, but you can -- yeah.</b></p> <p>4 Q. How much APH did you have to submit, for example, for</p> <p>5 Great Lakes Grain for the 2018 year?</p> <p>6 <b>A. I didn't submit any APHs.</b></p> <p>7 Q. How did you get insurance for Great Lakes Grain?</p> <p>8 <b>A. I called Chris.</b></p> <p>9 Q. Okay. And how did she get -- how did your agent, as</p> <p>10 your agent, get Great Lakes Grain insurance for 2018?</p> <p>11 <b>A. I don't know how she did.</b></p> <p>12 Q. Well --</p> <p>13 <b>A. She filled out the application. I reviewed and</b></p> <p>14 <b>signed.</b></p> <p>15 Q. All right. Would it be fair to say, based on your</p> <p>16 knowledge of the industry and working in it, that in</p> <p>17 order to obtain insurance, you have to submit a</p> <p>18 certain number of years' worth of this production</p> <p>19 history?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Okay. So, I mean, it's -- did Great Lakes Grain have</p> <p>22 to submit some of the Boersen entities' prior</p> <p>23 production history as part of this crop insurance</p> <p>24 endeavor for Great Lakes Grain?</p> <p>25 <b>A. I did not submit anything to Chris. Like I said, I</b></p>	<p style="text-align: right;">Page 47</p> <p>1 information you need to get to Chris?</p> <p>2 <b>A. No.</b></p> <p>3 Q. What -- what would you give to her? I'm sorry if you</p> <p>4 just said it, but ...</p> <p>5 <b>A. I gave her the list of farms that we would be farming.</b></p> <p>6 Q. And that's it?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. Were any of the farms on that list farms that no</p> <p>9 Boersen entity had ever farmed?</p> <p>10 <b>A. I -- no.</b></p> <p>11 Q. So if Chris had the records from her prior work for</p> <p>12 these Boersen entities, she would have them for every</p> <p>13 piece of track/property/land that Great Lakes Grain or</p> <p>14 New Heights Farm was farming; is that accurate?</p> <p>15 <b>A. I would assume so.</b></p> <p>16 Q. Are you familiar with the beginning farmer/rancher</p> <p>17 rules that apply to crop insurance?</p> <p>18 <b>A. Some.</b></p> <p>19 Q. Is that what you were farming as under Great Lakes</p> <p>20 Grain, a beginning farmer?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Okay. What about New Heights Farms I or II?</p> <p>23 <b>A. New Heights Farms II.</b></p> <p>24 Q. Was a beginning farmer?</p> <p>25 <b>A. Mmm-hmm.</b></p>
<p style="text-align: right;">Page 46</p> <p>1 <b>picked up the phone and I called her and she did</b></p> <p>2 <b>the -- she did the application.</b></p> <p>3 Q. But I think we said earlier that she was the one</p> <p>4 already -- she already had all that information and</p> <p>5 did all the work for the Boersen parties before that,</p> <p>6 right?</p> <p>7 <b>A. I would assume so.</b></p> <p>8 Q. All right. So what kinds of documents, if any, did</p> <p>9 Chris need from you to put together these</p> <p>10 applications?</p> <p>11 <b>A. I called her. She filled out the application. The</b></p> <p>12 <b>only thing I provided her with was the list of the</b></p> <p>13 <b>farms that I was going to be farming.</b></p> <p>14 Q. That's for Great Lakes Grain?</p> <p>15 <b>A. Great Lakes Grain. Also, New Heights I and II.</b></p> <p>16 Q. Okay. Were you the point person or was it Nicholas</p> <p>17 for -- or Nick, for New Heights Farm II, LLC, when</p> <p>18 having these dealings with Chris?</p> <p>19 <b>A. We both met with Chris.</b></p> <p>20 Q. Okay. Or responded to any questions she had or</p> <p>21 provided --</p> <p>22 <b>A. Correct.</b></p> <p>23 Q. -- that information, just whoever she could reach?</p> <p>24 <b>A. Mmm-hmm. Yes.</b></p> <p>25 Q. So besides -- well, would APH be some of the</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. What was Great Lakes Grain farming as?</p> <p>2 <b>A. I mean, I -- I don't understand the question, I guess.</b></p> <p>3 Q. If not a beginner, what was it farming?</p> <p>4 <b>A. Not a beginner. I don't know what they would call</b></p> <p>5 <b>that.</b></p> <p>6 Q. Okay. And that's the same for New Heights I?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. Before moving on that line of questioning, because we</p> <p>9 were just talking about your agent Chris, you don't</p> <p>10 know one way or the other whether she used Boersen</p> <p>11 properties' information -- or any Boersen party's APH</p> <p>12 or other historical data in doing the applications for</p> <p>13 Great Lakes Grain or New Heights I?</p> <p>14 <b>MR. VANDER VEEN:</b> Just to clarify, the</p> <p>15 Boersen parties, you're talking about the Boersen</p> <p>16 parties that are parties to this suit --</p> <p>17 <b>MR. MAGYAR:</b> Correct.</p> <p>18 <b>MR. VANDER VEEN:</b> -- that you identified</p> <p>19 earlier?</p> <p>20 <b>MR. MAGYAR:</b> Correct.</p> <p>21 <b>THE WITNESS:</b> You would have to ask her. I</p> <p>22 <b>don't know.</b></p> <p>23 <b>MR. MAGYAR:</b> You don't know.</p> <p>24 <b>BY MR. MAGYAR:</b></p> <p>25 Q. So, presumably, if she did, but you don't know, she</p>

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<p style="text-align: right;">Page 49</p> <p>1 would have had to have sought their permission to use</p> <p>2 their -- to submit their information with somebody</p> <p>3 else's application?</p> <p>4 <b>A. I don't know.</b></p> <p>5 Q. Okay. So for any Boersen party for which they used</p> <p>6 Chris as their agent for insurance, do you know which</p> <p>7 Boersen entities used Chris and -- and Great American?</p> <p>8 <b>A. I know Boersen Farms Grain did.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. I believe probably all the entities did for crop</b></p> <p>11 <b>insurance that had crop insurance.</b></p> <p>12 Q. And I think you already testified, so I can probably</p> <p>13 skip this one, but just to confirm, you weren't</p> <p>14 involved in the farming operation of any of those</p> <p>15 Boersen parties --</p> <p>16 <b>A. No.</b></p> <p>17 Q. -- correct?</p> <p>18 And you didn't participate in the operation</p> <p>19 or establishment of the yield production for the</p> <p>20 acreage for those Boersen parties?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Did you have a share of the crop on the acreage from</p> <p>23 any Boersen party?</p> <p>24 MR. VANDER VEEN: Again, just to be clear,</p> <p>25 we're talking about the Boersen companies that are</p>	<p style="text-align: right;">Page 51</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. So whether we're talking about the farm -- a defined</p> <p>3 Boersen party or any other entity on earth, it would</p> <p>4 be the same testimony; that you weren't the manager or</p> <p>5 owner or controller or farmer of that entity, because</p> <p>6 you start with Great Lakes Grain in 2018; is that</p> <p>7 right?</p> <p>8 <b>A. Just what my involvement was in the Boersen Farms</b></p> <p>9 <b>Grain.</b></p> <p>10 Q. Right, which we've talked about.</p> <p>11 <b>A. But I wasn't a manager, no.</b></p> <p>12 Q. Of any farm?</p> <p>13 <b>A. I -- I -- yeah, I performed small farming functions</b></p> <p>14 <b>for Boersen Farms Grain.</b></p> <p>15 Q. Okay. Okay. I just want to make sure there's not</p> <p>16 some oddball, outlier company that we're just totally</p> <p>17 overlooking or not talking about, so --</p> <p>18 <b>A. No.</b></p> <p>19 Q. Okay. And does Great Lakes Grain, the original, the</p> <p>20 2018 one, does that exist as a company anymore in</p> <p>21 terms of being active with the State of Michigan as a</p> <p>22 limited liability company?</p> <p>23 <b>A. I don't know if it's active right now. I know that</b></p> <p>24 <b>it's not performing any crops --</b></p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 50</p> <p>1 listed on the caption, right?</p> <p>2 MR. MAGYAR: Well, I'll open it up. That's</p> <p>3 a good clarification.</p> <p>4 BY MR. MAGYAR:</p> <p>5 Q. How about any of the Boersen parties listed in that</p> <p>6 agreement that we -- we looked at with Ceres,</p> <p>7 Exhibit 2, that we talked about the definition of the</p> <p>8 Boersen parties in there?</p> <p>9 <b>A. I believe, at some point, I had a small share in</b></p> <p>10 <b>Boersen Farms Grain.</b></p> <p>11 Q. Okay. What was your share?</p> <p>12 <b>A. I don't -- I don't even know off --</b></p> <p>13 Q. But you didn't manage --</p> <p>14 <b>A. No.</b></p> <p>15 Q. -- Boersen Farms Grain? You didn't do the farming</p> <p>16 work, right? Other than I think we talked about</p> <p>17 the -- was there corn --</p> <p>18 <b>A. Yeah.</b></p> <p>19 Q. Yeah.</p> <p>20 <b>A. And, you know, I might have ran parts to the field or,</b></p> <p>21 <b>also, maybe a seed tender, that kind of thing.</b></p> <p>22 Q. Okay. And, I guess, to sort of note that</p> <p>23 clarification that counsel made, other than Great</p> <p>24 Lakes Grain -- well, is Great Lakes Grain, the</p> <p>25 original, your first farming entity, so to speak?</p>	<p style="text-align: right;">Page 52</p> <p>1 <b>A. -- in 2019, besides to finish that winter wheat in the</b></p> <p>2 <b>spring.</b></p> <p>3 Q. Why did Dennis have a 10 percent minority interest in</p> <p>4 the original Great Lakes Grain? Dennis Boersen.</p> <p>5 <b>A. What do you -- I guess I don't understand the</b></p> <p>6 <b>question. Why?</b></p> <p>7 Q. Yeah. What was -- I mean, I think you said he doesn't</p> <p>8 have any interest in New Heights I --</p> <p>9 <b>A. No.</b></p> <p>10 Q. -- or New Heights II.</p> <p>11 <b>A. No. So him and I were going to go, you know, into</b></p> <p>12 <b>business together to do Great Lakes Grain, and we were</b></p> <p>13 <b>hoping to continue farming in 2019, with Great Lakes</b></p> <p>14 <b>Grain, and years beyond.</b></p> <p>15 Q. But now you're not in business with him?</p> <p>16 <b>A. No.</b></p> <p>17 Q. So if that was the hope, what changed?</p> <p>18 <b>A. What changed?</b></p> <p>19 Q. Yeah. You hoped to go into business together; now</p> <p>20 you're not.</p> <p>21 <b>A. Because my son came to me, and we had a unique</b></p> <p>22 <b>business opportunity to start together.</b></p> <p>23 Q. So it had nothing to do with Dennis having other</p> <p>24 creditors, judgments?</p> <p>25 <b>A. Absolutely it did, yes.</b></p>

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<p style="text-align: right;">Page 53</p> <p>1 Q. In your, I mean, I guess, relatively brief experience</p> <p>2 with at least the new entities getting insurance,</p> <p>3 Great Lakes Grain and New Heights I, have you -- has</p> <p>4 the amount of coverage varied?</p> <p>5 <b>A. Well, this year, we bought extra coverage in order to</b></p> <p>6 <b>keep our line of credit happy --</b></p> <p>7 Q. Right, the --</p> <p>8 <b>A. -- with the amount, the band coverage, yes. So that</b></p> <p>9 <b>was something brand-new for me to see.</b></p> <p>10 Q. Because, for instance, in one of the documents we just</p> <p>11 received in your production, there was a payment of --</p> <p>12 I can submit it if you want me to, but --</p> <p>13 MR. MAGYAR: I guess we can just mark it as</p> <p>14 an exhibit, but it's really just to help with the</p> <p>15 questioning.</p> <p>16 MARKED FOR IDENTIFICATION</p> <p>17 DEPOSITION EXHIBIT 3</p> <p>18 10:00 a.m.</p> <p>19 BY MR. MAGYAR:</p> <p>20 Q. It looks like that was a payment of \$70,737 in</p> <p>21 September of 2019, to Great American from Great Lakes</p> <p>22 Grain [sic]; is that right?</p> <p>23 <b>A. No. That was -- yeah, from Great American to Great --</b></p> <p>24 <b>Great Lakes Grain, yes.</b></p> <p>25 Q. Okay. And what was that for?</p>	<p style="text-align: right;">Page 55</p> <p>1 co-counsel, so maybe it will be ten minutes. Is that</p> <p>2 all right?</p> <p>3 MR. VANDER VEEN: Sounds good.</p> <p>4 (Off the record at 10:02 a.m.)</p> <p>5 (Back on the record at 10:13 a.m.)</p> <p>6 BY MR. MAGYAR:</p> <p>7 Q. All right. We spoke earlier, a little bit of detail</p> <p>8 about your insurance agent Chris -- and what was her</p> <p>9 last name?</p> <p>10 <b>A. Shellenbarger.</b></p> <p>11 Q. Shellenbarger.</p> <p>12 And I think I understood from the</p> <p>13 testimony, tell me if it's wrong, that, essentially,</p> <p>14 you asked her to submit what you need to to obtain</p> <p>15 crop insurance for Great Lakes Grain in 2018, right?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And same for New Heights I in 2019?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Okay. Did you have to ultimately sign the documents,</p> <p>20 the application?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Okay. Did you read it when you had to sign it?</p> <p>23 <b>A. I looked it over.</b></p> <p>24 Q. All right. So you were -- in other words, you were</p> <p>25 authorizing your agent to do what was necessary to</p>
<p style="text-align: right;">Page 54</p> <p>1 <b>A. That was for an insurance claim on the winter wheat.</b></p> <p>2 Q. And that winter wheat is what you were talking about</p> <p>3 was the last thing that went into 2019, right, from --</p> <p>4 <b>A. Correct.</b></p> <p>5 Q. -- from Great Lakes Grain?</p> <p>6 And what became of those proceeds; were</p> <p>7 they applied under that agreement we looked at earlier</p> <p>8 to Ceres, or what happened with that money?</p> <p>9 <b>A. No. This money went to pay Logan Agri-Services.</b></p> <p>10 <b>Great Lakes Grain owed him a little bit of money for</b></p> <p>11 <b>seed, fertilizer, and chemicals from 2018.</b></p> <p>12 Q. So Logan was like, basically, the input provider, the</p> <p>13 lender for that?</p> <p>14 <b>A. Yes, the input provider. Mmm-hmm.</b></p> <p>15 Q. Okay. And how much in total was Logan owed? Did --</p> <p>16 did Logan get paid off in full?</p> <p>17 <b>A. Yes. I don't know what the total amount was.</b></p> <p>18 Q. It was something more than this insurance amount?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And that was based on revenue from the GLG -- or the</p> <p>21 Great Lakes Grain crop --</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. -- year?</p> <p>24 MR. MAGYAR: Let's take maybe a five-minute</p> <p>25 break. I'm going to use the restroom and talk with my</p>	<p style="text-align: right;">Page 56</p> <p>1 procure the insurance, right?</p> <p>2 <b>A. Correct.</b></p> <p>3 Q. And you understand when signing and submitting, then</p> <p>4 you're making a representation to the federal</p> <p>5 government that it's true and accurate?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. So you're saying if Chris had used APH data from</p> <p>8 Boersen parties, you didn't appreciate it, maybe, or</p> <p>9 you didn't realize it if this happened, but she was</p> <p>10 authorized to do it, as far as you were concerned?</p> <p>11 <b>A. I didn't say that I did not appreciate it.</b></p> <p>12 Q. I mean appreciate in terms of understand, not like</p> <p>13 appreciate in the common sense like --</p> <p>14 <b>A. I understand that I trusted her to secure the crop</b></p> <p>15 <b>insurance for me for what I needed for both Great</b></p> <p>16 <b>Lakes Grain and New Heights I and II for him. And,</b></p> <p>17 <b>yeah, I mean, I know she did her job good.</b></p> <p>18 Q. All right. So if that included submitting APH data</p> <p>19 based on the same lands having been farmed by prior</p> <p>20 Boersen parties, then she was authorized to do that?</p> <p>21 <b>A. Absolutely.</b></p> <p>22 Q. And that would have been part of what you were signing</p> <p>23 off on?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Okay. And you understand under -- that if that's what</p>

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<p style="text-align: right;">Page 57</p> <p>1 Chris did in terms of using another prior -- another</p> <p>2 production history of a prior entity, then that would</p> <p>3 make Great Lakes Grain or New Heights I a transferee</p> <p>4 of that data in terms of applying for crop insurance;</p> <p>5 do you understand that?</p> <p>6 <b>A. No, I do not understand that.</b></p> <p>7 Q. Okay. Have you looked at any of the -- at the</p> <p>8 handbooks governing this kind of insurance?</p> <p>9 <b>A. No, I have not.</b></p> <p>10 Q. Okay. Like the 2019 Crop Insurance Handbook issued by</p> <p>11 the United States Department of Agriculture, Federal</p> <p>12 Crop Insurance Corporation/Risk Management Agency?</p> <p>13 <b>A. I have not seen that, no.</b></p> <p>14 Q. So on signing the application, you would be relying on</p> <p>15 what -- what Chris did in terms of whether you were</p> <p>16 submitting proper information to the government?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. But you're certain, at least -- not talking about New</p> <p>19 Heights II, but for New Heights I and Great Lakes</p> <p>20 Grain -- that you were not operating under the --</p> <p>21 under a beginning farmer method, right?</p> <p>22 <b>A. I don't believe so.</b></p> <p>23 Q. Okay. Would it be you or Nick, or either one, to be</p> <p>24 the best person to talk to about seeking insurance as</p> <p>25 a -- as a new farmer for New Heights II?</p>	<p style="text-align: right;">Page 59</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Where at?</p> <p>3 <b>A. At the farm office.</b></p> <p>4 Q. Where -- where is that at?</p> <p>5 <b>A. 6241 Ransom Street.</b></p> <p>6 Q. Okay. And when was the last time you met with Chris?</p> <p>7 <b>A. Oh, I would say this fall, maybe November she came to</b></p> <p>8 <b>see me, on a Saturday, when I was drying corn.</b></p> <p>9 Q. Was it in connection with any insurance application?</p> <p>10 <b>A. I don't know.</b></p> <p>11 Q. Well, I mean, she's from Petoskey, right, you said?</p> <p>12 <b>A. I don't -- is it? I think that's where the Great</b></p> <p>13 <b>American is located, but I don't know for sure where</b></p> <p>14 <b>she's from. Like the, gosh, Lansing area, maybe.</b></p> <p>15 Q. Do you know what the nature of her visit was the last</p> <p>16 time you saw her; do you remember?</p> <p>17 <b>A. I don't recall.</b></p> <p>18 Q. Have you had any in-person meetings with her</p> <p>19 specifically related to applying for crop insurance?</p> <p>20 <b>A. Well, back in 2019, when I applied for crop insurance,</b></p> <p>21 <b>I called her, I told her what we needed, and then she</b></p> <p>22 <b>came in with the paperwork, and we signed.</b></p> <p>23 Q. Okay. So you called her? I said, in the question,</p> <p>24 in-person meetings.</p> <p>25 <b>A. Okay. In-person meetings regarding crop insurance?</b></p>
<p style="text-align: right;">Page 58</p> <p>1 <b>A. Either one.</b></p> <p>2 Q. What's your understanding of how the application</p> <p>3 process -- or the application or the ability to obtain</p> <p>4 insurance differs for a, you know, new farmer versus a</p> <p>5 non-new farmer like Great Lakes Grain or New Heights</p> <p>6 I?</p> <p>7 <b>A. Again, Chris did that offer for him that --</b></p> <p>8 Q. So when I asked a moment ago --</p> <p>9 <b>A. So I -- all I know -- all I know of -- the only</b></p> <p>10 <b>advantage I know of him is the crop insurance is a</b></p> <p>11 <b>little bit cheaper.</b></p> <p>12 Q. So, really, it's -- it's Chris I would need to talk</p> <p>13 to --</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. -- if I was going to talk about the ins and outs about</p> <p>16 applying for insurance, right?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Okay. Or look at the documents that we have</p> <p>19 subpoenaed from Great American, but I haven't</p> <p>20 received, right, in terms of --</p> <p>21 <b>A. I don't know that you haven't received them. I don't</b></p> <p>22 <b>know.</b></p> <p>23 Q. Well, I'm telling you I haven't received them.</p> <p>24 <b>A. Okay.</b></p> <p>25 Q. Have you ever met with Chris in person, your agent?</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Yes.</p> <p>2 <b>A. She came, and we signed the crop insurance.</b></p> <p>3 Q. Okay. And when she came and you signed, what did she</p> <p>4 have with her?</p> <p>5 <b>A. She had the crop insurance application.</b></p> <p>6 Q. Okay. And how many pages are we talking?</p> <p>7 <b>A. I signed probably -- I don't recall how many pages it</b></p> <p>8 <b>was.</b></p> <p>9 Q. Was it a voluminous document? Was it just a few pages</p> <p>10 with signature lines?</p> <p>11 <b>A. I don't recall.</b></p> <p>12 Q. When we talk about these APHs, were those included</p> <p>13 with the application?</p> <p>14 <b>A. I don't recall.</b></p> <p>15 Q. The documents, were they half-an-inch thick; do you</p> <p>16 remember?</p> <p>17 <b>A. No.</b></p> <p>18 Q. Less?</p> <p>19 <b>A. Less.</b></p> <p>20 Q. So in terms of like the documents sitting in front of</p> <p>21 you that's been previously marked as Exhibit 2 called</p> <p>22 "Agreement," do you think the documents that Chris</p> <p>23 brought to you --</p> <p>24 <b>A. No.</b></p> <p>25 Q. -- were less than that?</p>



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<p style="text-align: right;">Page 61</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. Let me see that exhibit.</p> <p>3 MR. MAGYAR: For the record, I'm not saying</p> <p>4 that the witness said any specific number of pages,</p> <p>5 but this document is one, two --</p> <p>6 <b>THE WITNESS: Can I make a correction on</b></p> <p>7 <b>that? Because I signed with a finger on a notepad or</b></p> <p>8 <b>her -- now I recall that.</b></p> <p>9 MR. VANDER VEEN: Kind of like a tablet,</p> <p>10 when you say "notepad"?</p> <p>11 <b>THE WITNESS: Correct. Yes.</b></p> <p>12 BY MR. MAGYAR:</p> <p>13 Q. All right. Exhibit 2 is 15 pages. But I think what</p> <p>14 you just testified is that you -- did you have any</p> <p>15 hard copy documents?</p> <p>16 <b>A. I don't believe so.</b></p> <p>17 Q. Okay. So it was all on tablet?</p> <p>18 <b>A. Correct.</b></p> <p>19 Q. And when you looked at the tablet, it was for a</p> <p>20 finger, electronic signature?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Did it have pages electronically to scroll through?</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. So you could have viewed the entire application?</p> <p>25 <b>A. Correct.</b></p>	<p style="text-align: right;">Page 63</p> <p>1 Q. So you don't know if you put pen to paper?</p> <p>2 <b>A. I couldn't tell you.</b></p> <p>3 Q. So you wouldn't remember, then, if it was on a tablet</p> <p>4 or a voluminous document?</p> <p>5 <b>A. That's correct.</b></p> <p>6 Q. How old is Nick?</p> <p>7 <b>A. Nineteen.</b></p> <p>8 Q. Nineteen. So born in 1990?</p> <p>9 <b>A. 2000.</b></p> <p>10 Q. I'm sorry, 2000. Shows you how old I am. Yeah,</p> <p>11 because I'm a lot older than that.</p> <p>12 Did he work for like the family farming</p> <p>13 prior to New Heights?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. What -- so that would have been with Great Lakes Grain</p> <p>16 and prior Boersen parties?</p> <p>17 <b>A. Yeah, I guess. Not really Great Lakes Grain.</b></p> <p>18 Q. Okay. Well, again, let's limit it then to any Boersen</p> <p>19 party. What kind of activities?</p> <p>20 <b>A. Since he was 14, he's been driving tractors,</b></p> <p>21 <b>combining, planting, field cultivation.</b></p> <p>22 Q. All right.</p> <p>23 <b>A. And probably before that, ten years old, I think was</b></p> <p>24 <b>the first time he was in a tractor.</b></p> <p>25 Q. All the stuff I would have expected you to say.</p>
<p style="text-align: right;">Page 62</p> <p>1 Q. Including any documents submitted with the</p> <p>2 application?</p> <p>3 <b>A. I assume so.</b></p> <p>4 Q. And did you do that at that time?</p> <p>5 <b>A. I looked at the document, and I signed the document.</b></p> <p>6 Q. And this was 2019, for New Heights I, is what we're</p> <p>7 talking about?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Did you have a similar meeting for Great Lakes Grain</p> <p>10 insurance?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And would all the same sort of structure apply: You</p> <p>13 met in person, you used a tablet, you signed</p> <p>14 electronically, it was --</p> <p>15 <b>A. I don't recall if that was electronic or not.</b></p> <p>16 Q. Okay. So let's talk about that then. When would</p> <p>17 you --</p> <p>18 <b>A. And --</b></p> <p>19 Q. Would you -- I'm sorry, go ahead.</p> <p>20 <b>A. Go ahead.</b></p> <p>21 Q. Would you have met with Chris personally for the Great</p> <p>22 Lakes Grain insurance application to sign it?</p> <p>23 <b>A. Dennis and I did.</b></p> <p>24 Q. Okay. And was it hard copy or electronic?</p> <p>25 <b>A. I don't recall.</b></p>	<p style="text-align: right;">Page 64</p> <p>1 But, again, to get into any kind of</p> <p>2 discussion about what, if any, impact that would have</p> <p>3 on then becoming a new farmer for his own company</p> <p>4 would be questions for Chris, in terms of applying for</p> <p>5 insurance?</p> <p>6 <b>A. Correct.</b></p> <p>7 MR. MAGYAR: I'll mark this as the next</p> <p>8 exhibit. We're on 4 now.</p> <p>9 MARKED FOR IDENTIFICATION</p> <p>10 DEPOSITION EXHIBIT 4</p> <p>11 10:26 a.m.</p> <p>12 BY MR. MAGYAR:</p> <p>13 Q. Go ahead and take a look at that document. Let me</p> <p>14 know when you've had a chance.</p> <p>15 <b>A. Yeah.</b></p> <p>16 Q. Okay. What is this document?</p> <p>17 <b>A. This is a creditor -- creditor agreement with Logan Ag</b></p> <p>18 <b>Services and Great Lakes Grain.</b></p> <p>19 Q. It looks like --</p> <p>20 <b>A. And -- go ahead.</b></p> <p>21 Q. Go ahead. No, please finish.</p> <p>22 <b>A. No, that's what it is.</b></p> <p>23 Q. Okay. And Ceres is a party here, too?</p> <p>24 <b>A. That's correct.</b></p> <p>25 Q. And it's as of June 6 of 2018?</p>

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<p style="text-align: right;">Page 65</p> <p>1 <b>A. Yes.</b></p> <p>2 Q. And I see it's called "Creditor Agreement."</p> <p>3 <b>A. Mmm-hmm.</b></p> <p>4 Q. Can you describe for me what the main subject of the</p> <p>5 agreement is, what's the purpose of it?</p> <p>6 <b>A. The purpose of it? So Logan Ag provided inputs for</b></p> <p>7 <b>2018 to Great Lakes Grain, and Ceres provided the land</b></p> <p>8 <b>to Great Lakes Grain, you know, as far as the rent.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. And this is just -- I believe it's just pretty much</b></p> <p>11 <b>saying that Great Lakes Grain would use its crops to</b></p> <p>12 <b>pay the debt owed under Great Lakes Grain to both</b></p> <p>13 <b>Logan Ag and Ceres.</b></p> <p>14 Q. All right. And then it looks like in the second</p> <p>15 "Whereas" paragraph on the front page there --</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. -- it has an Exhibit A, and it's saying that it's</p> <p>18 talking about the -- certain leases whereby Ceres has</p> <p>19 leased farm to tenant defined as Great Lakes Grain; do</p> <p>20 you see that?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. So if we flip back to Exhibit A, I'm looking at a</p> <p>23 list. It looks like it's right after --</p> <p>24 MR. VANDER VEEN: How far back in the</p> <p>25 document is it?</p>	<p style="text-align: right;">Page 67</p> <p>1 earlier that there's no property of these 34 on this</p> <p>2 list of lands that Great Lakes Grain was going to</p> <p>3 lease -- or, yeah, lease to farm that hadn't</p> <p>4 previously been farmed by a Boersen party; is that</p> <p>5 right?</p> <p>6 <b>A. I don't know for sure if there is new farms that I</b></p> <p>7 <b>picked up in '18 or not.</b></p> <p>8 Q. Do you think there were any new ones?</p> <p>9 <b>A. I don't believe so.</b></p> <p>10 Q. Do you know whether Ceres -- whether any Boersen party</p> <p>11 ever owned any of these farms prior to Ceres owning</p> <p>12 it?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Which ones?</p> <p>15 <b>A. Denniston Farm. Marshall Farm. The Book Farm. I</b></p> <p>16 <b>don't know if there's any more on there, to tell you</b></p> <p>17 <b>the truth, but I know all those --</b></p> <p>18 Q. What about the Stamp Farms from 22 to 33?</p> <p>19 <b>A. I can't be 100 percent sure.</b></p> <p>20 Q. For any -- for any farm that a Boersen entity may have</p> <p>21 owned before Ceres, what's your understanding of how</p> <p>22 Ceres came to be the owner?</p> <p>23 <b>A. I -- I don't know. I just know that -- I don't know</b></p> <p>24 <b>how they became the owner. I can't speak to that.</b></p> <p>25 Q. Do you know whether they're buy/sells? Foreclosures?</p>
<p style="text-align: right;">Page 66</p> <p>1 MR. MAGYAR: It's about midway through,</p> <p>2 after the last signature page.</p> <p>3 <b>THE WITNESS: There's all kinds of</b></p> <p>4 <b>Exhibit As in here.</b></p> <p>5 MR. MAGYAR: Yeah. Those are legal</p> <p>6 descriptions, it looks like.</p> <p>7 MR. VANDER VEEN: Here we go.</p> <p>8 <b>THE WITNESS: Right here.</b></p> <p>9 BY MR. MAGYAR:</p> <p>10 Q. So would you agree with -- agree with me that that's</p> <p>11 at least a list that appears to be referenced in the</p> <p>12 front page that we were just looking at?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And are these -- it looks like they're numbered 34 --</p> <p>15 the 34 leased farms or properties that Ceres is</p> <p>16 leasing to Great Lakes Grain?</p> <p>17 <b>A. That's correct.</b></p> <p>18 Q. Okay. And it looks like we just mentioned that a lot</p> <p>19 of the pages following this, a lot of them have the</p> <p>20 word "Exhibit A" on them, but it looks like it's</p> <p>21 intended to be the legal descriptions of each of these</p> <p>22 properties that are -- that are listed on the list, or</p> <p>23 do you think --</p> <p>24 <b>A. Yes, I believe that's the intention.</b></p> <p>25 Q. Okay. And I think we said earlier -- or you testified</p>	<p style="text-align: right;">Page 68</p> <p>1 <b>A. I don't know.</b></p> <p>2 Q. Dennis would know?</p> <p>3 <b>A. Dennis would know.</b></p> <p>4 Q. Before we look at some equipment leases, I just want</p> <p>5 to close the loop on your agent, since it sounds like</p> <p>6 we're going to need to talk to her.</p> <p>7 So you talked about a fall meeting last</p> <p>8 year for New Heights I, where she came and saw you;</p> <p>9 may or may not have been about crop insurance; you</p> <p>10 just remember you saw her at your office.</p> <p>11 <b>A. (Nodded head.)</b></p> <p>12 Q. When was the meeting where you did the electronic</p> <p>13 signature?</p> <p>14 <b>A. That was in the spring.</b></p> <p>15 Q. Okay. And where -- where was that?</p> <p>16 <b>A. I believe she came to the office then, too.</b></p> <p>17 Q. Okay.</p> <p>18 <b>A. 6241 Ransom.</b></p> <p>19 Q. Okay. And when you would need to supply her with</p> <p>20 anything, did -- did that ever happen, you sent her --</p> <p>21 <b>A. I sent her a land list of what the acres was going to</b></p> <p>22 <b>be for New Heights I and New Heights II.</b></p> <p>23 Q. What form did you send that in? Email? Mail?</p> <p>24 <b>A. It would have been an email.</b></p> <p>25 Q. And where did you send it to? I know you thought</p>

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<p style="text-align: right;">Page 69</p> <p>1 maybe she's in Lansing, but you thought --</p> <p>2 <b>A. I would have emailed it to her.</b></p> <p>3 Q. And you thought --</p> <p>4 <b>A. To Chris's email.</b></p> <p>5 Q. -- she's in Lansing?</p> <p>6 <b>A. She's around that area. Charlotte, maybe. I don't</b></p> <p>7 <b>know.</b></p> <p>8 Q. And tell me again, just because I can't remember what</p> <p>9 you said, where you think Great American, as an</p> <p>10 entity, is located.</p> <p>11 <b>A. I don't know. I thought I seen once a Petoskey</b></p> <p>12 <b>address, but I don't know for sure.</b></p> <p>13 Q. Okay. Well, I see on some of their paperwork that --</p> <p>14 that you produced for your declaration of coverage,</p> <p>15 there's a Peoria, Illinois, address for Great American</p> <p>16 Insurance Company.</p> <p>17 Do you recall ever seeing that on -- on</p> <p>18 your papers?</p> <p>19 <b>A. I can't say I took notice of the address, no.</b></p> <p>20 Q. So, for instance --</p> <p>21 MR. MAGYAR: We'll just mark this as an</p> <p>22 exhibit.</p> <p>23 MARKED FOR IDENTIFICATION</p> <p>24 DEPOSITION EXHIBIT 5</p> <p>25 10:34 a.m.</p>	<p style="text-align: right;">Page 71</p> <p>1 Q. Yeah, so she's your agent. She's with a brokerage --</p> <p>2 or a broker, Spartan in Petoskey, and the parent --</p> <p>3 the main company is Great Lakes in Illinois --</p> <p>4 <b>A. Yeah.</b></p> <p>5 Q. -- it looks like.</p> <p>6 Kind of like car insurance, I never go</p> <p>7 right to like the State Farm main office.</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Let's see. So that -- that meeting was in the spring,</p> <p>10 and it was at your office, I think you said, with the</p> <p>11 signature --</p> <p>12 <b>A. Yes.</b></p> <p>13 Q. -- at the bottom.</p> <p>14 What about for Great Lakes Grain -- you</p> <p>15 said you and Dennis met, and you couldn't remember if</p> <p>16 it was electronic or not -- do you remember where the</p> <p>17 meeting was?</p> <p>18 <b>A. It would have been at the farm office.</b></p> <p>19 Q. Okay. So it would have been at -- okay.</p> <p>20 And Chris, at that time, as far as you</p> <p>21 know, still worked for the -- lived around Lansing,</p> <p>22 worked for the agency out of Petoskey, and where the</p> <p>23 company is from, Peoria, Illinois --</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. -- right?</p>
<p style="text-align: right;">Page 70</p> <p>1 BY MR. MAGYAR:</p> <p>2 Q. This is Exhibit 5. And it looks like it's a</p> <p>3 Declaration of Coverage, effective for the 2018 crop</p> <p>4 year, from Great American Insurance Company to the</p> <p>5 insured, Great Lakes Grain, LLC.</p> <p>6 Do you see that?</p> <p>7 <b>A. Yes, I do.</b></p> <p>8 Q. And do you see now where I'm pointing out where Great</p> <p>9 Lake -- Great American lists its address as Peoria,</p> <p>10 Illinois?</p> <p>11 <b>A. I do.</b></p> <p>12 Q. Would you expect that your agent, Chris, would --</p> <p>13 would provide any information you give her to her</p> <p>14 employer at their main address?</p> <p>15 <b>A. What was the question?</b></p> <p>16 Q. Would your agent send your documents to her -- to</p> <p>17 Great American?</p> <p>18 <b>A. I assume so, but that's her job, so I --</b></p> <p>19 <b>Right.</b></p> <p>20 <b>A. But this is where I came up with Petoskey. It says,</b></p> <p>21 <b>"Main 2/Petoskey, Michigan," on the top there, so --</b></p> <p>22 <b>Yep.</b></p> <p>23 <b>A. Behind her name.</b></p> <p>24 Q. For Spartan Insurance.</p> <p>25 <b>A. That's why, for some reason, that stuck out to me.</b></p>	<p style="text-align: right;">Page 72</p> <p>1 So nothing really different at that --</p> <p>2 <b>A. No.</b></p> <p>3 Q. -- time frame?</p> <p>4 All right. And other than potentially who</p> <p>5 signed, which may have been Nick, does all of this</p> <p>6 apply the same for New Heights II, in terms of did</p> <p>7 Chris come at some point to have things signed --</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. -- for the insurance?</p> <p>10 <b>A. Mmm-hmm.</b></p> <p>11 Q. And would that also have been spring, or were you like</p> <p>12 operating on the same sort of track here?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. And then she would have met with Nick to get his</p> <p>15 signature on the application?</p> <p>16 <b>A. Yes.</b></p> <p>17 Q. And that would have been the electronic kind?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. I guess I can -- assuming --</p> <p>20 <b>A. Yeah.</b></p> <p>21 Q. -- we don't run out of time later, we can -- and I</p> <p>22 don't think we will -- but I can ask Nick, too, but</p> <p>23 ...</p> <p>24 And then, presumably, she would have</p> <p>25 submitted her -- that information -- Chris would</p>



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<p style="text-align: right;">Page 73</p> <p>1 have -- to the -- to the home office; or she would</p> <p>2 have sent it to Petoskey, to her agency, and they</p> <p>3 would have sent it to Illinois, to the company?</p> <p>4 <b>A. I don't know what her procedure is.</b></p> <p>5 Q. Okay. But, ultimately, you would expect that it would</p> <p>6 have to get to the government that issues the</p> <p>7 insurance, right?</p> <p>8 <b>A. I would assume so, but that's what she does. She</b></p> <p>9 <b>takes care of that.</b></p> <p>10 Q. Yeah, you're hiring her as your agent to --</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. -- handle the expertise in that matter, right?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. Any other meetings you can think of for strictly</p> <p>15 relating to getting crop insurance for either Great</p> <p>16 Lakes Grain or any New Heights entity? Any other time</p> <p>17 that you met with Chris either in person or -- or</p> <p>18 otherwise?</p> <p>19 <b>A. I mean, I had dinner with her this spring. I mean,</b></p> <p>20 <b>she's -- yeah. No.</b></p> <p>21 Q. But that wasn't for --</p> <p>22 <b>A. No. No.</b></p> <p>23 Q. -- crop insurance reasons?</p> <p>24 Okay. And can you recall any instance of</p> <p>25 her saying, "Hey, I need this spreadsheet or financial</p>	<p style="text-align: right;">Page 75</p> <p>1 lien on the crop insurance. So with ARM, they are</p> <p>2 never going to overloan what your crop is worth with</p> <p>3 the value of the crop insurance.</p> <p>4 Q. So would you say the crop insurance was a critical</p> <p>5 aspect, then, to obtain that financing?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. How did you get introduced to that lender, the New</p> <p>8 Heights lender?</p> <p>9 <b>A. Gosh. I feel like it was something that maybe the old</b></p> <p>10 <b>entities went after once before. And then I had a</b></p> <p>11 <b>friend that told me about going over to ARM and seeing</b></p> <p>12 <b>what they could do with me and Nick together, because,</b></p> <p>13 <b>you know, he told me how much he wanted to farm, and</b></p> <p>14 <b>that's all he wanted to do.</b></p> <p>15 Q. Are they an Illinois-based farm?</p> <p>16 <b>A. Well, we -- we go right down here in Michigan. What</b></p> <p>17 <b>is it? Is it -- I don't know, Charlotte?</b></p> <p>18 <b>THE WITNESS: Where is that, Nick?</b></p> <p>19 <b>MR. BOERSEN: Richland.</b></p> <p>20 <b>THE WITNESS: Richland. Sorry.</b></p> <p>21 <b>MR. VANDER VEEN: You have to answer. He</b></p> <p>22 <b>can't answer.</b></p> <p>23 <b>THE WITNESS: I know. I'm sorry. But him</b></p> <p>24 <b>and I went there to sign documents, in Richland,</b></p> <p>25 <b>Michigan, and they came out to the farm to meet with</b></p>
<p style="text-align: right;">Page 74</p> <p>1 data," or some kind of information that you would have</p> <p>2 sent via email?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Or mail? No?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Okay. Was there a loan from -- that Great Lakes Grain</p> <p>7 took for 1.5 million from Boersen Farms, Inc. in May</p> <p>8 of '18?</p> <p>9 <b>A. No.</b></p> <p>10 Q. I think in both the documents and the discovery</p> <p>11 responses, it was because of the New Heights entities</p> <p>12 being so brand-new that they were basically listed as</p> <p>13 having \$10,000 in cash as their own asset. Do you</p> <p>14 recall that answer?</p> <p>15 <b>A. Well, that was just what he and I had in our bank</b></p> <p>16 <b>accounts separately. I think we opened the checking</b></p> <p>17 <b>book -- checkbooks for New Heights I and II with \$100</b></p> <p>18 <b>cash.</b></p> <p>19 Q. Okay. So how was New Heights able to obtain financing</p> <p>20 with that -- with, you know, being brand-new and</p> <p>21 having that as the asset?</p> <p>22 <b>A. So as I alluded to before, ARM is a big lender for</b></p> <p>23 <b>new-time farmers, and they are secured with the</b></p> <p>24 <b>current crop in the ground. They have a first lien on</b></p> <p>25 <b>the crop. And with the crop insurance, they have a</b></p>	<p style="text-align: right;">Page 76</p> <p>1 him and I in the spring.</p> <p>2 BY MR. MAGYAR:</p> <p>3 Q. And so they had -- they have a lien on the 2019 New</p> <p>4 Heights crop, right?</p> <p>5 <b>A. Mmm-hmm.</b></p> <p>6 Q. Whereas Logan had the lien on the 2018 Great Lakes</p> <p>7 Grain crop?</p> <p>8 <b>A. Logan also has a lien on the 2019 crop, because he was</b></p> <p>9 <b>our crop input provider --</b></p> <p>10 Q. Okay.</p> <p>11 <b>A. -- for 2019.</b></p> <p>12 Q. So who has priority between Logan and ARM?</p> <p>13 <b>A. ARM.</b></p> <p>14 Q. ARM. And how would you communicate with ARM? It</p> <p>15 sounds like there was a Richland meeting that you</p> <p>16 talked about.</p> <p>17 <b>A. Richland is where we went to sign the loan documents.</b></p> <p>18 <b>I called Scott, and I think his last name</b></p> <p>19 <b>is Rueff. He came out and met with Nick and I back in</b></p> <p>20 <b>the -- I would say end of February last year, and then</b></p> <p>21 <b>told us what they would require as far as doing a</b></p> <p>22 <b>loan, which is the crop insurance, and then we had to</b></p> <p>23 <b>provide them information regarding to our -- what land</b></p> <p>24 <b>we planned on leasing at that point.</b></p> <p>25 Q. Where is Scott located out of?</p>

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<p style="text-align: right;">Page 77</p> <p>1 <b>A. I don't know.</b></p> <p>2 Q. When you provided him the land you planned on leasing,</p> <p>3 was it a list similar to the one that we've looked at</p> <p>4 today, or what did you provide him with?</p> <p>5 <b>A. No, it was just an Excel spreadsheet.</b></p> <p>6 Q. When we looked earlier at that list that was part of</p> <p>7 the Great Lakes Grain agreement, do you know -- does</p> <p>8 the farming that New Heights I and II do, is it on the</p> <p>9 same or different lands that Great Lakes Grain farmed</p> <p>10 on?</p> <p>11 <b>A. Some of the same.</b></p> <p>12 Q. Some but not all?</p> <p>13 <b>A. I would -- maybe -- yeah, maybe all of it.</b></p> <p>14 Q. Does New Heights Farm -- and I'm talking about both in</p> <p>15 combination -- farm more land than Great Lakes Grain</p> <p>16 did?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. By how much?</p> <p>19 <b>A. Oh, I would say probably 14,000 acres.</b></p> <p>20 Q. Fourteen thousand acres more?</p> <p>21 MR. VANDER VEEN: Just to clarify, you</p> <p>22 referred to New Heights Farm. Are you talking about</p> <p>23 New Heights Farm I or New Heights Farm II?</p> <p>24 BY MR. MAGYAR:</p> <p>25 Q. Do you understand who I'm talking about when I say</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. Okay. Now, we've talked about -- and I think we'll</p> <p>2 look at probably some lease agreements where either</p> <p>3 Great Lakes Grain or -- or a New Heights entity I or</p> <p>4 II is leasing equipment from a Boersen property. You</p> <p>5 understand that?</p> <p>6 <b>A. Yes.</b></p> <p>7 MR. VANDER VEEN: A Boersen property, you</p> <p>8 said?</p> <p>9 MR. MAGYAR: A Boersen party.</p> <p>10 MR. VANDER VEEN: Okay. And we're talking</p> <p>11 about the -- by "Boersen party," the parties listed in</p> <p>12 the caption still?</p> <p>13 MR. MAGYAR: Any Boersen party, either in</p> <p>14 the caption or as defined, as we've done, in the</p> <p>15 agreement.</p> <p>16 MR. VANDER VEEN: So any -- okay. In</p> <p>17 either of the agreements that are exhibits or the</p> <p>18 caption?</p> <p>19 MR. MAGYAR: Any party, any individual, or</p> <p>20 entity that has the word "Boersen" in it in the</p> <p>21 world --</p> <p>22 MR. VANDER VEEN: Okay.</p> <p>23 MR. MAGYAR: -- is what we're talking</p> <p>24 about.</p> <p>25 <b>THE WITNESS: Yes.</b></p>
<p style="text-align: right;">Page 78</p> <p>1 "New Heights"?</p> <p>2 <b>A. You said both companies, right?</b></p> <p>3 Q. Yeah. New Heights Farm I, LLC.</p> <p>4 <b>A. I and II.</b></p> <p>5 Q. Yep. If I say "New Heights," you understand who I'm</p> <p>6 talking about?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. I mean, we're not talking about any other New Heights?</p> <p>9 <b>A. Right.</b></p> <p>10 MR. VANDER VEEN: Thank you for the</p> <p>11 clarification.</p> <p>12 BY MR. MAGYAR:</p> <p>13 Q. So when you said 14,000 acres a moment ago, you meant</p> <p>14 14,000 acres more than what Great Lakes Grain was</p> <p>15 doing, or 14,000 acres in total?</p> <p>16 <b>A. Fourteen thousand -- I would say it's like 12,000</b></p> <p>17 <b>acres more than what Great Lakes Grain was doing.</b></p> <p>18 Q. Okay. So what do you think the total acreage farmed</p> <p>19 in combination by New Heights I and II are?</p> <p>20 <b>A. It was right around 18,000 acres.</b></p> <p>21 Q. Okay. And then how much of that 18,000 do you think</p> <p>22 was just New Heights I?</p> <p>23 <b>A. Half of it.</b></p> <p>24 Q. Okay. And so it was split?</p> <p>25 <b>A. It was split equally, yes.</b></p>	<p style="text-align: right;">Page 80</p> <p>1 BY MR. MAGYAR:</p> <p>2 Q. And does New Heights I or II or Great Lakes Grain use</p> <p>3 any equipment that's not leased from any Boersen</p> <p>4 entity or person?</p> <p>5 <b>A. Yes.</b></p> <p>6 Q. And what equipment would that be?</p> <p>7 <b>A. New Heights I has a lease with Team Financial, and</b></p> <p>8 <b>that is for a planter leased with the option to</b></p> <p>9 <b>purchase at the end of the lease.</b></p> <p>10 <b>And then earlier in the spring, New Heights</b></p> <p>11 <b>II rented a tractor from Ausra Equipment.</b></p> <p>12 Q. Oh, they're from my town, Dowagiac.</p> <p>13 <b>A. Mmm-hmm.</b></p> <p>14 Q. All right. Anything else?</p> <p>15 <b>A. Not that I recall right now.</b></p> <p>16 Q. For those leases, where did the finances come to enter</p> <p>17 into the lease; would it be from the lending from ARM?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. For the leases -- we can look at some individually.</p> <p>20 But when you would lease equipment from any Boersen</p> <p>21 entity or individual, how was the rent amount set?</p> <p>22 <b>A. I believe in the rent and lease, it was 75,000 per</b></p> <p>23 <b>company, per month.</b></p> <p>24 Q. And do you know how that number was derived?</p> <p>25 <b>A. It was fair market value, and the fair market value is</b></p>

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<p style="text-align: right;">Page 81</p> <p>1 within the limits provided by the FSA.</p> <p>2 Q. Okay. And do you know whether -- I guess we'll start</p> <p>3 with Great Lakes Grain made and was current on all of</p> <p>4 its payments under a lease, equipment leases?</p> <p>5 A. I believe so.</p> <p>6 Q. And do you know whether you've produced documentation</p> <p>7 of those payments?</p> <p>8 A. I don't know if I produced that or not.</p> <p>9 Q. Same for New Heights, do you think you --</p> <p>10 A. Yes, I know they have.</p> <p>11 Q. -- paid all their leases?</p> <p>12 A. Mmm-hmm.</p> <p>13 Q. Regardless of who the lessor, whether Boersen or</p> <p>14 otherwise, those are all paid?</p> <p>15 A. So the Ausra Equipment was cash up front, Team</p> <p>16 Financial is a monthly payment, and then, also,</p> <p>17 Boersen Farms &amp; Affiliates is a monthly payment.</p> <p>18 Q. Okay. And is Boersen Farms &amp; Affiliates the only</p> <p>19 Boersen entity you have a lease with for equipment?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And what is -- what is that entity? What does</p> <p>22 it do?</p> <p>23 A. I don't know.</p> <p>24 Q. Boersen, as far as you know, it just owns equipment</p> <p>25 that it leases?</p>	<p style="text-align: right;">Page 83</p> <p>1 II?</p> <p>2 A. No.</p> <p>3 Q. We looked at that \$70,000 claim payout from the winter</p> <p>4 wheat for Great Lakes Grain, right? Do you recall</p> <p>5 that?</p> <p>6 A. Yes.</p> <p>7 Q. Have you had any other claims for either Great Lakes</p> <p>8 Grain or New Heights I or II?</p> <p>9 A. As far as payouts?</p> <p>10 Q. Have you made any claims besides the one we talked --</p> <p>11 we saw the payout?</p> <p>12 A. No.</p> <p>13 Q. Okay. Who is Blain Becktold or Down On The Farm?</p> <p>14 A. He used to work -- I don't know if he still does, but</p> <p>15 he is -- used to work and help me with certification</p> <p>16 of the crops; so he did that for Great Lakes Grain.</p> <p>17 And then when Nick and I started our own farm, it was</p> <p>18 just an extra expense, so I learned how to do that on</p> <p>19 my own.</p> <p>20 Q. And that was, I think you were talking about before,</p> <p>21 is basically collecting the data that's needed for --</p> <p>22 A. No. Certifying with the FSA is you go into the FSA</p> <p>23 office and you look at the farm maps of everything you</p> <p>24 planted and you put a plant date on it, what you</p> <p>25 planted.</p>
<p style="text-align: right;">Page 82</p> <p>1 A. I don't know if that's all that entity does.</p> <p>2 Q. Do you know where it obtained its equipment that it</p> <p>3 leases?</p> <p>4 A. I do not.</p> <p>5 Q. Do you know who the owners are?</p> <p>6 A. I do not.</p> <p>7 Q. All right. Is it an LLC, I'm sorry, or an Inc.; do</p> <p>8 you know?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you know whether any other entity has a security</p> <p>11 interest in the equipment that you lease from -- what</p> <p>12 was it called, Boersen --</p> <p>13 A. -- Farms &amp; Affiliates.</p> <p>14 Q. Boersen Farms &amp; Affiliates.</p> <p>15 So the equipment that you're leasing from</p> <p>16 them, do you know if any other entity has a security</p> <p>17 interest in that equipment?</p> <p>18 A. I have no idea.</p> <p>19 Q. Okay. Do you know whether Ceres has a security</p> <p>20 interest in them?</p> <p>21 A. I don't know.</p> <p>22 Q. Was Dennis involved with you in terms of -- in any</p> <p>23 capacity: farming, consulting, working for any New</p> <p>24 Heights or Great Lakes Grain entity -- well, not Great</p> <p>25 Lakes Grain; he's 10 percent owner -- New Heights I or</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Okay. And so that's why, in some of the documents, he</p> <p>2 had to be granted, for when he was doing that for you,</p> <p>3 a power of attorney?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And did -- where did, you know -- well, let me</p> <p>6 back up.</p> <p>7 Was Blain Becktold the same as Down On The</p> <p>8 Farm? Was that like his company?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And what -- how did you come to know</p> <p>11 Mr. Becktold? Did he do that work for Boersen Farms,</p> <p>12 any Boersen entity, or did you know him from somewhere</p> <p>13 else?</p> <p>14 A. He did do that for the old Boersen entities, yes.</p> <p>15 Q. And this certification that he was doing, was it</p> <p>16 involved with applying for crop insurance, or was it a</p> <p>17 totally separate certification that he would have</p> <p>18 made?</p> <p>19 A. It's totally separate.</p> <p>20 Q. Okay. So it doesn't come into play on the application</p> <p>21 itself or --</p> <p>22 A. Not that I know of.</p> <p>23 Q. Now, I believe in the answers to interrogatories, when</p> <p>24 we were talking about the Great Lakes Grain II, III,</p> <p>25 IV, the ones that couldn't get financing, I think you</p>

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<p style="text-align: right;">Page 85</p> <p>1 had responded that because they never came to</p> <p>2 fruition, they -- that they were -- there was no APHS</p> <p>3 done or any kind of documentation done for them in</p> <p>4 terms of history, right?</p> <p>5 <b>A. Correct. They never farmed.</b></p> <p>6 Q. Okay. Do you know whether Chris ever submitted</p> <p>7 anything, in terms of insurance-wise, for those</p> <p>8 entities?</p> <p>9 <b>A. I -- I don't recall.</b></p> <p>10 Q. Okay. You don't recall signing anything for --</p> <p>11 <b>A. No.</b></p> <p>12 MR. MAGYAR: Well, I think we can go off</p> <p>13 the record. I may be done. I'm going to make one</p> <p>14 more call, but we'll get Ron in time for his meeting,</p> <p>15 no problem.</p> <p>16 MR. VANDER VEEN: Good deal.</p> <p>17 MR. MAGYAR: One second.</p> <p>18 (Off the record at 10:56 a.m.)</p> <p>19 (Back on the record at 11:03 a.m.)</p> <p>20 BY MR. MAGYAR:</p> <p>21 Q. I think I know the answer to this, but I just want to</p> <p>22 verify, that Great Lakes Grain, the original, never</p> <p>23 did any farming before the 2018 crop year?</p> <p>24 <b>A. Correct.</b></p> <p>25 Q. Okay. You were talking earlier about the</p>	<p style="text-align: right;">Page 87</p> <p>1 Q. It's only eight.</p> <p>2 <b>A. Let me see. Randy Barnes. Lisa Robinson. I got to</b></p> <p>3 <b>really, really stretch to think. Nolan Ender. I</b></p> <p>4 <b>don't know why I can't just rattle them all off. Carl</b></p> <p>5 <b>Moll. Carl Brown. Dave Emelander. Chris Pace. And</b></p> <p>6 <b>myself, I'm on the employee list, also.</b></p> <p>7 Q. Okay. For New Heights II, does the list differ in any</p> <p>8 way?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Okay. Are any of the individuals you just named also</p> <p>11 employees of New Heights II?</p> <p>12 <b>A. No.</b></p> <p>13 Q. I guess I can probably wait for these with Nick, but</p> <p>14 do you know who the employees are for New Heights II,</p> <p>15 or how many? Let's start with how many.</p> <p>16 <b>A. I believe there's six.</b></p> <p>17 Q. Do you know who they are?</p> <p>18 <b>A. Bill Kushmaul. Michael Carlock. I really have to</b></p> <p>19 <b>think about this. Cory Tom. I know -- I don't know</b></p> <p>20 <b>who else I'm missing, but Nick would know.</b></p> <p>21 Q. Okay. Yeah, we can cover that this afternoon.</p> <p>22 What does Mr. Barnes do for New Heights I?</p> <p>23 <b>A. He's a grain manager.</b></p> <p>24 Q. And what about Ms. Robinson?</p> <p>25 <b>A. She's HR.</b></p>
<p style="text-align: right;">Page 86</p> <p>1 certification process and that you learned to do it</p> <p>2 yourself.</p> <p>3 <b>A. Mmm-hmm.</b></p> <p>4 Q. Do you know whether Great Lakes Grain ever sold any</p> <p>5 crop, as the seller, that had been certified as the</p> <p>6 crop of someone else, like a Boersen farming entity?</p> <p>7 <b>A. I didn't do the certifications for '18. Blain did.</b></p> <p>8 <b>So I guess I wouldn't know.</b></p> <p>9 Q. So you just don't know one way or the other?</p> <p>10 <b>A. No.</b></p> <p>11 Q. Okay. And then in terms of -- well, let me go back to</p> <p>12 that question about Great Lakes Grain having never</p> <p>13 done any farming prior to 2018.</p> <p>14 It looked like, in some of the acreage</p> <p>15 reports in 2019, that there's listings for Great Lakes</p> <p>16 Grain in 2017. Do you have any understanding how that</p> <p>17 would happen if that's the case?</p> <p>18 <b>A. No.</b></p> <p>19 Q. Staffing-wise, how many employees does New Heights I</p> <p>20 have?</p> <p>21 <b>A. New Heights I has eight employees.</b></p> <p>22 Q. Okay. Who are they?</p> <p>23 <b>A. Who are they?</b></p> <p>24 Q. Yeah.</p> <p>25 <b>A. Do you want me to name them all?</b></p>	<p style="text-align: right;">Page 88</p> <p>1 Q. And Ender, Nolan Ender?</p> <p>2 <b>A. He's a combine -- he's an operator, I guess you would</b></p> <p>3 <b>say.</b></p> <p>4 Q. And was it Moore, Carl Moore?</p> <p>5 <b>A. Carl Brown?</b></p> <p>6 Q. There were two. I thought there were two Carls.</p> <p>7 <b>A. Oh, Carl Moll, M-o-l-l. He's an operator, also.</b></p> <p>8 Q. And then Brown?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. What did you say Brown does?</p> <p>11 <b>A. He's a truck driver.</b></p> <p>12 Q. And then Dave?</p> <p>13 <b>A. Emelander is a truck driver.</b></p> <p>14 Q. Driver. And then Chris Pace, was it?</p> <p>15 <b>A. Yeah. He's a truck driver, also.</b></p> <p>16 Q. Do you know if any of those employees that we've just</p> <p>17 named through work for any -- well, did any of them</p> <p>18 work for Great Lakes Grain?</p> <p>19 <b>A. No.</b></p> <p>20 Q. Did any of them work for any Boersen entity?</p> <p>21 <b>A. What entity are we talking about?</b></p> <p>22 Q. Any, that you're aware of.</p> <p>23 <b>A. Yes.</b></p> <p>24 Q. Who?</p> <p>25 <b>A. I did. Lisa Robinson did. I mean, they all did, I --</b></p>

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<p style="text-align: right;">Page 89</p> <p>1 I guess, at some point.</p> <p>2 Q. All right. So who did Lisa Robinson work for in terms</p> <p>3 of the Boersen entities?</p> <p>4 A. I don't -- I don't recall.</p> <p>5 Q. Do you recall specifically for any of them, like which</p> <p>6 Boersen entity she worked for?</p> <p>7 A. Boersen Farms Grain, I think.</p> <p>8 Q. How many employees did Great Lakes Grain, the</p> <p>9 original, have for --</p> <p>10 A. Great Lakes Grain didn't have employees.</p> <p>11 Q. Okay. Who did -- for the 2018 crop year, who did the</p> <p>12 kinds of things that we've listed off here: the truck</p> <p>13 driving, the operating, the HR, the grain?</p> <p>14 A. We had an employee/employment agreement.</p> <p>15 Q. Okay. And who --</p> <p>16 A. And I believe that -- I'd have to look at it. I don't</p> <p>17 remember who it was with.</p> <p>18 Q. Was it with more than one person you had employment</p> <p>19 agreements, or --</p> <p>20 A. It was one agreement with multiple companies, I</p> <p>21 believe. I'd have to see the agreement.</p> <p>22 Q. Okay. Do you know if that's been produced?</p> <p>23 A. Yes.</p> <p>24 Q. It has been produced?</p> <p>25 A. I believe so.</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Same role?</p> <p>2 A. No. I don't know what his role was there.</p> <p>3 Q. Okay.</p> <p>4 A. I mean, I know that I made him manager of my farm.</p> <p>5 MR. MAGYAR: Okay. All right. Well, then,</p> <p>6 I don't know if you're planning to stick around or</p> <p>7 not, but I don't think -- I'm not going to be resuming</p> <p>8 your deposition at 1:30.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. MAGYAR: We'll just start right off</p> <p>11 with Nick --</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. MAGYAR: -- so depending on if you're</p> <p>14 traveling separate or together, whatever.</p> <p>15 THE WITNESS: All right.</p> <p>16 MR. VANDER VEEN: Thank you, Mark.</p> <p>17 (Deposition concluded at 11:10 a.m.</p> <p>18 Signature of the witness was requested.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. To us?</p> <p>2 A. I believe so.</p> <p>3 Q. Okay. So these were independent contractors to get</p> <p>4 the -- get the work done for Great Lakes Grain?</p> <p>5 A. Yes.</p> <p>6 Q. But then with New Heights, it's their own employees?</p> <p>7 They're employees of the company --</p> <p>8 A. Yes.</p> <p>9 Q. -- New Heights I and II?</p> <p>10 A. Mmm-hmm.</p> <p>11 MR. MAGYAR: All right. Well, I got you</p> <p>12 20 minutes early, Ron.</p> <p>13 MR. VANDER VEEN: Good deal. Thank you.</p> <p>14 THE WITNESS: Well, I thought of another</p> <p>15 one, if you want to know. Reed Haverdink. He's like</p> <p>16 my company manager, so ...</p> <p>17 BY MR. MAGYAR:</p> <p>18 Q. That's New Heights I?</p> <p>19 A. Yes.</p> <p>20 Q. And that's company manager.</p> <p>21 And do you know if he was employed by a</p> <p>22 Boersen entity?</p> <p>23 A. Yes.</p> <p>24 Q. Who? Which entity?</p> <p>25 A. Boersen Farms Grain.</p>	<p style="text-align: right;">Page 92</p> <p>1 HELENA AGRI-ENTERPRISES, LLC,</p> <p>2 a Delaware limited liability</p> <p>3 company,</p> <p>4 Plaintiff,</p> <p>5 vs. Case No. 1:18-cv-00963-RJJ-RSK</p> <p>6 Hon. Robert J. Jonker</p> <p>7 GREAT LAKES GRAIN, LLC, a</p> <p>8 Michigan limited liability</p> <p>9 company, et al.,</p> <p>10 Defendants.</p> <p>11</p> <p>12</p> <p>13 VERIFICATION OF DEPONENT</p> <p>14</p> <p>15 I, Stacy Boersen, having read the</p> <p>16 foregoing deposition consisting of my testimony at the</p> <p>17 aforementioned time and place, subject to the changes</p> <p>18 in the attached errata sheet, do hereby attest to the</p> <p>19 correctness and truthfulness of the transcript.</p> <p>20</p> <p>21</p> <p>22</p> <p>23 _____</p> <p>24 Stacy Boersen</p> <p>25 Dated:</p>

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<p>1 ERRATA SHEET Page 93</p> <p>2 PAGE LINE READS PAGE LINE SHOULD READ</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
<p>1 CERTIFICATE OF NOTARY Page 94</p> <p>2 STATE OF MICHIGAN )</p> <p>3 ) SS</p> <p>4 COUNTY OF OTTAWA )</p> <p>5</p> <p>6 I, PEGGY S. SAVAGE, certify that this</p> <p>7 deposition was taken before me on the date</p> <p>8 hereinbefore set forth; that the foregoing questions</p> <p>9 and answers were recorded by me stenographically and</p> <p>10 reduced to computer transcription; that this is a</p> <p>11 true, full and correct transcript of my stenographic</p> <p>12 notes so taken; and that I am not related to, nor of</p> <p>13 counsel to, either party nor interested in the event</p> <p>14 of this cause.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 </p> <p>21</p> <p>22 PEGGY S. SAVAGE, CSR-4189, RPR</p> <p>23 Notary Public,</p> <p>24 Ottawa County, Michigan.</p> <p>25 My Commission expires: 7-13-25</p>	

# Exhibit

# 2

**In the Matter Of:**

HELENA AGRI-ENTERPRISES, LLC vs vs GREAT LAKES GRAIN, LLC, ET AL.

NICHOLAS BOERSEN

January 15, 2020

*Prepared for you by*



**Bingham Farms/Southfield • Grand Rapids**

Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw • Troy



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Pages 1–4

<p style="text-align: right;">Page 1</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE WESTERN DISTRICT OF MICHIGAN</p> <p>3 SOUTHERN DIVISION</p> <p>4</p> <p>5 HELENA AGRI-ENTERPRISES, LLC,</p> <p>6 a Delaware limited liability</p> <p>7 company,</p> <p>8 Plaintiff,</p> <p>9 vs. Case No. 1:18-cv-00963-RJJ-RSK</p> <p>10 Hon. Robert J. Jonker</p> <p>11 GREAT LAKES GRAIN, LLC, a</p> <p>12 Michigan limited liability</p> <p>13 company; GREAT LAKES GRAIN II,</p> <p>14 LLC, a Michigan limited</p> <p>15 liability company; GREAT LAKES</p> <p>16 III, LLC, a Michigan limited</p> <p>17 liability company; GREAT LAKES</p> <p>18 IV, LLC, a Michigan limited</p> <p>19 liability company; NEW HEIGHTS</p> <p>20 FARM I, LLC, a Michigan limited</p> <p>21 liability company; NEW HEIGHTS</p> <p>22 FARM II, LLC, a Michigan limited</p> <p>23 liability company; STACY BOERSEN,</p> <p>24 individually and as putative</p> <p>25 member of the Great Lakes Grain</p>	<p style="text-align: right;">Page 3</p> <p>1 RONALD J. VANDER VEEN</p> <p>2 Cunningham Dalman, P.C.</p> <p>3 321 Settlers Road</p> <p>4 Holland, Michigan 49423</p> <p>5 (616) 392-1821</p> <p>6 rjvv@cunninghamdalman.com</p> <p>7 Appearing on behalf of the Defendants.</p> <p>8</p> <p>9 ALSO PRESENT:</p> <p>10 Stacy Boersen</p> <p>11 Amanda Crouch (via telephone)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 defendants and New Heights Farm I,</p> <p>2 LLC; and NICHOLAS BOERSEN,</p> <p>3 individually and as putative</p> <p>4 member of New Heights Farm II, LLC,</p> <p>5 Defendants.</p> <p>6 _____</p> <p>7</p> <p>8</p> <p>9 The Deposition of NICHOLAS BOERSEN,</p> <p>10 Taken at 321 Settlers Road,</p> <p>11 Holland, Michigan,</p> <p>12 Commencing at 1:29 p.m.,</p> <p>13 Wednesday, January 15, 2020,</p> <p>14 Before Peggy S. Savage, CSR-4189, RPR.</p> <p>15</p> <p>16 APPEARANCES:</p> <p>17</p> <p>18 MARK J. MAGYAR</p> <p>19 Dykema Gossett, P.L.L.C.</p> <p>20 300 Ottawa Avenue, N.W.</p> <p>21 Suite 700</p> <p>22 Grand Rapids, Michigan 49503</p> <p>23 (616) 776-7500</p> <p>24 mmagyar@dykema.com</p> <p>25 Appearing on behalf of the Plaintiff.</p>	<p style="text-align: right;">Page 4</p> <p>1 TABLE OF CONTENTS</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 NICHOLAS BOERSEN</p> <p>5</p> <p>6 EXAMINATION BY MR. MAGYAR 5</p> <p>7 EXAMINATION BY MR. VANDER VEEN 54</p> <p>8</p> <p>9 EXHIBITS</p> <p>10</p> <p>11 EXHIBIT PAGE</p> <p>12 (Exhibits not offered.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 5</p> <p>1 Holland, Michigan</p> <p>2 Wednesday, January 15, 2020</p> <p>3 1:29 p.m.</p> <p>4</p> <p>5 NICHOLAS BOERSEN,</p> <p>6 was thereupon called as a witness herein, and after</p> <p>7 having first been duly sworn or affirmed to testify to</p> <p>8 the truth, the whole truth and nothing but the truth,</p> <p>9 was examined and testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. MAGYAR:</p> <p>12 Q. Good afternoon, Nick. You were here earlier, so I'll</p> <p>13 just introduce myself again.</p> <p>14 A. Yeah.</p> <p>15 Q. Mark Magyar for Helena. And I believe you were here</p> <p>16 when I went over the ground rules --</p> <p>17 A. Yep.</p> <p>18 Q. -- of a deposition?</p> <p>19 A. Yep.</p> <p>20 Q. Did you understand everything?</p> <p>21 A. Yep. Yep.</p> <p>22 Q. And have you ever been deposed before?</p> <p>23 A. Nope.</p> <p>24 Q. Okay. So I understand you're the owner of New Heights</p> <p>25 II, LLC; is that -- New Heights Farm II, LLC; is that</p>	<p style="text-align: right;">Page 7</p> <p>1 about what your job duties entailed prior to New</p> <p>2 Heights II. But is there anything that you wanted to</p> <p>3 add to that --</p> <p>4 A. No.</p> <p>5 Q. -- or clarify?</p> <p>6 Okay. Were there ever any management roles</p> <p>7 involved with --</p> <p>8 A. No.</p> <p>9 Q. Okay. And your mom mentioned the six employees for</p> <p>10 New Heights II -- Farm II.</p> <p>11 A. Yep.</p> <p>12 Q. Was that accurate, or were there any --</p> <p>13 A. Yeah. That's Cory Tom, Brian Goodrich, Mike Carlock,</p> <p>14 and then, yeah, Bill Kushmaul, and that's my six --</p> <p>15 or that's -- I think the only one she kept out was</p> <p>16 Brian Goodrich for mine, so ...</p> <p>17 Q. And do they report directly to you?</p> <p>18 A. Yeah, to me.</p> <p>19 Q. Okay. Is your dad involved in New Heights Farm II,</p> <p>20 LLC?</p> <p>21 A. Nope.</p> <p>22 Q. What does he do for employment now?</p> <p>23 A. My dad?</p> <p>24 Q. Yeah.</p> <p>25 A. I don't really know. Couldn't really tell you. He's</p>
<p style="text-align: right;">Page 6</p> <p>1 right?</p> <p>2 A. Yep.</p> <p>3 MR. VANDER VEEN: Let me, as a preliminary</p> <p>4 matter, also just state on the record that -- that</p> <p>5 Nick reserves the right to review the transcript and</p> <p>6 sign off on it.</p> <p>7 MR. MAGYAR: Okay.</p> <p>8 BY MR. MAGYAR:</p> <p>9 Q. Nick, have you ever owned a business before?</p> <p>10 A. No, I have not.</p> <p>11 Q. And you were here. We talked earlier with your mom</p> <p>12 about your prior work experience from at least the age</p> <p>13 of 14 for the family --</p> <p>14 A. Yep.</p> <p>15 Q. -- farming, right?</p> <p>16 A. Yep.</p> <p>17 Q. Any other employment history besides that?</p> <p>18 A. Nope.</p> <p>19 Q. Okay. So would it be fair to say that everything</p> <p>20 you've learned, giving you the ability to run New</p> <p>21 Heights Farm II, LLC was based on working through the</p> <p>22 family --</p> <p>23 A. Yep.</p> <p>24 Q. -- farming business?</p> <p>25 And we went over a little bit with your mom</p>	<p style="text-align: right;">Page 8</p> <p>1 not around a whole lot.</p> <p>2 Q. Okay. Now, you heard that a lot of the discussion</p> <p>3 this morning with your mom had to do with crop</p> <p>4 insurance; you recall that?</p> <p>5 A. Yep.</p> <p>6 Q. And my understanding, based on some of the documents</p> <p>7 filed in this action, is that you applied for crop</p> <p>8 insurance as a beginning farmer or --</p> <p>9 A. Yep, young farmer.</p> <p>10 Q. Young farmer, okay.</p> <p>11 Is there a difference between young farmer</p> <p>12 and beginning farmer in terms of getting crop</p> <p>13 insurance, or is it just --</p> <p>14 A. That would be something you'd have to ask Chris.</p> <p>15 That's not something I'd know off the top of my head.</p> <p>16 Q. So your understanding is it's called a young farmer --</p> <p>17 A. Yep.</p> <p>18 Q. -- program?</p> <p>19 And is that based on -- when you say</p> <p>20 "young," being like your age of 19, or young in terms</p> <p>21 of not having been a farmer before or having your own</p> <p>22 farming business before?</p> <p>23 A. I couldn't be specific, but I think it has something</p> <p>24 to do with both.</p> <p>25 Q. All right. And you heard the testimony earlier, but</p>

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<p style="text-align: right;">Page 9</p> <p>1 do you have a specific recollection of meeting with</p> <p>2 Chris to sign crop insurance application materials for</p> <p>3 New Heights Farm II?</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. And I think the testimony was that that was in the</p> <p>6 spring of '19?</p> <p>7 <b>A. Yep.</b></p> <p>8 Q. Okay. And your mom testified -- well, was that the</p> <p>9 same meeting where you and your mom were present with</p> <p>10 Chris --</p> <p>11 <b>A. Yep. Yep.</b></p> <p>12 Q. -- or were they different meetings?</p> <p>13 <b>A. Yeah, same meeting.</b></p> <p>14 Q. Okay. And so did you electronically sign? Was it a</p> <p>15 tablet?</p> <p>16 <b>A. I think -- I think it was a piece of paper.</b></p> <p>17 Q. You recall --</p> <p>18 <b>A. Yeah.</b></p> <p>19 Q. -- paper?</p> <p>20 <b>A. Yeah.</b></p> <p>21 Q. And when you say "a piece," was there more than one</p> <p>22 sheet or was it one sheet?</p> <p>23 <b>A. I can't remember.</b></p> <p>24 Q. Did you have to sign more than one time?</p> <p>25 <b>A. I can't remember.</b></p>	<p style="text-align: right;">Page 11</p> <p>1 2019 crop year?</p> <p>2 <b>A. Yep, that's correct.</b></p> <p>3 Q. And did Chris, at any time, make requests of you for</p> <p>4 documentation that, you know, she said she would need</p> <p>5 for submitting the application?</p> <p>6 <b>A. Not that I can recall.</b></p> <p>7 Q. Okay. And do you have an idea of what information is</p> <p>8 needed to -- to apply under a young farmer program for</p> <p>9 crop insurance?</p> <p>10 <b>A. No, I do not. That's kind of why I put the ball in</b></p> <p>11 <b>her court on this, and she's taking care of it.</b></p> <p>12 Q. Okay. So you put the ball in her court?</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. And then she didn't ask you for anything?</p> <p>15 <b>A. Basically, yeah.</b></p> <p>16 Q. Okay. But you just know that you called Chris, and</p> <p>17 she got insurance?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. Okay. What is your understanding of how the new --</p> <p>20 the young farmer program works?</p> <p>21 <b>A. From what Chris has mentioned to me, it just gives me</b></p> <p>22 <b>a few more benefits and maybe some deductions in some</b></p> <p>23 <b>prices, but nothing specific.</b></p> <p>24 Q. Okay. Do you have any knowledge of what kinds of</p> <p>25 information that are necessary to obtain crop</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. Was it a voluminous package?</p> <p>2 <b>A. Like I said, I -- it was so long ago, I can't</b></p> <p>3 <b>remember.</b></p> <p>4 Q. Well, so was it March of '19; is that -- when we say</p> <p>5 "spring," was it March?</p> <p>6 <b>A. Yeah. I'd say sometime around March or the first of</b></p> <p>7 <b>April.</b></p> <p>8 Q. So about nine months ago?</p> <p>9 <b>A. Yep.</b></p> <p>10 Q. And you're pretty sure it was paper, not electronic?</p> <p>11 <b>A. Yep.</b></p> <p>12 Q. Okay. And you don't recall it being some big, hefty</p> <p>13 package?</p> <p>14 <b>A. No.</b></p> <p>15 Q. Okay. You heard the testimony earlier, so I'm sorry</p> <p>16 if it's going to seem repetitive, but we need to get</p> <p>17 your own personal recollection of things.</p> <p>18 When -- when we talk about Chris being the</p> <p>19 insurance agent, were you -- similar to the testimony</p> <p>20 your mom gave -- basically expecting Chris to handle</p> <p>21 that piece of, you know, getting crop insurance?</p> <p>22 <b>A. Yes.</b></p> <p>23 Q. So you were authorizing Chris, as the agent of New</p> <p>24 Heights Farm II, LLC, to submit what she deemed the</p> <p>25 appropriate paperwork to obtain crop insurance for the</p>	<p style="text-align: right;">Page 12</p> <p>1 insurance, what the insurer needs to see to provide a</p> <p>2 policy for a young farmer?</p> <p>3 <b>A. No, I do not.</b></p> <p>4 Q. Okay. What assets did New Heights Farm II, LLC have</p> <p>5 in, I guess, March through May of 2019?</p> <p>6 <b>A. Nothing.</b></p> <p>7 Q. We heard testimony earlier from your mom that the</p> <p>8 lending for New Heights I was based on the expected</p> <p>9 crop and having a lien on the crop, as well as there</p> <p>10 being crop insurance, among other things she may have</p> <p>11 testified about, but those are two things I remember.</p> <p>12 Would you agree with that in terms of for New Heights</p> <p>13 II?</p> <p>14 <b>A. Yeah, I would say it's closely the same.</b></p> <p>15 Q. Did you ever have any discussions -- I think your mom</p> <p>16 talked about you two met when you decided to start</p> <p>17 your own company -- about using Great Lakes Grain II,</p> <p>18 III, or IV as opposed to creating a new New Heights</p> <p>19 entity?</p> <p>20 <b>A. No.</b></p> <p>21 Q. You just came up with -- decided to just start --</p> <p>22 <b>A. Yeah. I actually came to her and decided that I</b></p> <p>23 <b>wanted to start my own business, and she wanted to be</b></p> <p>24 <b>a partner with me and move forward, and we came up</b></p> <p>25 <b>with a whole new thing and ...</b></p>

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Pages 13–16

<p style="text-align: right;">Page 13</p> <p>1 Q. Okay. Have you ever seen the APH for New Heights Farm 2 II, LLC?</p> <p>3 <b>A. Not that I can think of.</b></p> <p>4 Q. I think we discussed with your mom, but tell me if I'm 5 wrong or if you have a different understanding, but 6 that the farmland that New Heights Farm II, LLC farms 7 on is land that has previously been farmed on by some 8 entity having Boersen in the title, right?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. Okay. And have you worked -- even when you were an 11 employee, not an owner -- in the family business on 12 some of these same lands that --</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. Okay. What was your participation, if any, with Ceres 15 in terms -- in terms of the leases for the farmland 16 for New Heights II?</p> <p>17 <b>A. Basically, Brandon -- we talked to Brandon and, 18 basically, took on the leases he had available for us, 19 the leases he brought to us.</b></p> <p>20 Q. And that's Brandon -- I think it's Zwick?</p> <p>21 <b>A. Yep. Yep.</b></p> <p>22 Q. Okay. Did you have any dealings with Steve Cardinal?</p> <p>23 <b>A. Nope.</b></p> <p>24 Q. And do you know if any of the land that you're now 25 leasing for New Heights Farm II that is owned by Ceres</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Is that like G-r- --</p> <p>2 <b>A. G-u- -- or G-r-u-b-e.</b></p> <p>3 Q. Okay. And do you know where either of those gentlemen 4 reside, in terms of like where their offices are at?</p> <p>5 <b>A. Their office is in Richland, but they travel all over.</b></p> <p>6 Q. Okay. And what about the company itself, is it more 7 than just Richland or --</p> <p>8 <b>A. Yep. Yep.</b></p> <p>9 Q. Where are they out of? Do you know where they're 10 located?</p> <p>11 <b>A. I have no idea. It's more than Richland. I just 12 don't know where.</b></p> <p>13 Q. Is it more than Michigan; do you know?</p> <p>14 <b>A. I think so, but I couldn't tell ya.</b></p> <p>15 Q. Have you ever looked at -- I know you were here when I 16 asked your mom, but -- any crop insurance handbooks?</p> <p>17 <b>A. Nope, I have not.</b></p> <p>18 Q. Okay. So New Heights Farm II, then, the first year 19 that they would have ever been insured would have been 20 just a one-time -- I'm not talking 2020, but 2019 21 would have been the first year --</p> <p>22 <b>A. Yep.</b></p> <p>23 Q. -- of getting any crop insurance, right? 24 Do you know whether part of submitting for 25 the insurance, as a young farmer, that there had to</p>
<p style="text-align: right;">Page 14</p> <p>1 was ever previously owned by a Boersen entity?</p> <p>2 <b>A. I can't tell you for sure off the top of my head 3 without seeing a list.</b></p> <p>4 Q. Do you think it's possible, though?</p> <p>5 <b>A. No.</b></p> <p>6 Q. No.</p> <p>7 <b>A. I don't know them all.</b></p> <p>8 Q. But do you think Ceres owns some properties that were 9 formerly owned by Boersen entities that -- when you 10 worked for -- there as an employee?</p> <p>11 <b>A. No.</b></p> <p>12 Q. No. So you think it's all different farmland that 13 Ceres owns and leases to --</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Okay. Who from -- is it ARM that is the lender?</p> <p>16 <b>A. Yep.</b></p> <p>17 Q. Who was your contact with ARM?</p> <p>18 <b>A. At first, we talked to Scott Rueff. That was the 19 first person we came in contact with when setting up 20 the applications. And then when we signed, Dan Grube 21 is who we talked to.</b></p> <p>22 Q. Dan who?</p> <p>23 <b>A. Grube.</b></p> <p>24 Q. Grube?</p> <p>25 <b>A. Yep.</b></p>	<p style="text-align: right;">Page 16</p> <p>1 still be some production reports from -- or historical 2 reports from farming the land even prior to the 3 existence of New Heights II?</p> <p>4 <b>A. I'm not sure.</b></p> <p>5 Q. Okay. Were you -- did you ever work for Great Lakes 6 Grain in any capacity?</p> <p>7 <b>A. I really don't know where the companies kind of fell 8 in line. I stopped getting paid after Boersen Farms 9 Ag, basically. So I don't really know where the 10 companies ever switched hand, because I never kept 11 track of that.</b></p> <p>12 Q. Did you farm crop in 2018, or the winter wheat, I 13 guess, into 2019?</p> <p>14 <b>A. Like farm or help out or --</b></p> <p>15 Q. Yeah, just --</p> <p>16 <b>A. I helped out, but I went to college last year, so -- 17 part-time.</b></p> <p>18 Q. Okay. Where at?</p> <p>19 <b>A. College?</b></p> <p>20 Q. Yeah.</p> <p>21 <b>A. GRCC.</b></p> <p>22 Q. Were you starting like farm related?</p> <p>23 <b>A. I was just starting business --</b></p> <p>24 Q. Business and agriculture?</p> <p>25 <b>A. -- and then was going to transfer somewhere.</b></p>

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Pages 17–20

<p style="text-align: right;">Page 17</p> <p>1 Q. Okay. Who told you -- or how did you learn, I guess,</p> <p>2 that you'd be submitting for crop insurance under</p> <p>3 this -- under young farmer?</p> <p>4 <b>A. Chris notified me --</b></p> <p>5 Q. Chris?</p> <p>6 <b>A. -- that I could get benefits being a young farmer.</b></p> <p>7 Q. Okay. So is it fair to say -- or is there any other</p> <p>8 source of information or knowledge you have about that</p> <p>9 than --</p> <p>10 <b>A. No.</b></p> <p>11 Q. -- besides Chris?</p> <p>12 <b>A. No.</b></p> <p>13 Q. Okay. When -- so I know there was this meeting with</p> <p>14 the signature in like March or spring of 2019.</p> <p>15 When did the process start for getting crop</p> <p>16 insurance in terms of -- or how did the process start</p> <p>17 for New Heights II?</p> <p>18 <b>A. Before we even got to the signature part?</b></p> <p>19 Q. Yeah.</p> <p>20 <b>A. I mean, starting a farm and getting a business and</b></p> <p>21 <b>getting a line of credit, that's a necess- --</b></p> <p>22 Q. Correct.</p> <p>23 <b>A. -- necess- -- I can't even pronounce it --</b></p> <p>24 Q. No, I hear you.</p> <p>25 <b>A. -- you know what I'm saying, to even get the line of</b></p>	<p style="text-align: right;">Page 19</p> <p>1 January/beginning of February first conversation, and</p> <p>2 we know that the signature happens sometime the</p> <p>3 spring, maybe March.</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. What happens -- how many discussions were there in</p> <p>6 between? Do you then contact Chris or --</p> <p>7 <b>A. Yeah, we went to Chris --</b></p> <p>8 Q. Okay.</p> <p>9 <b>A. -- contacted her.</b></p> <p>10 Q. And that was a phone call?</p> <p>11 <b>A. Yeah, just a phone call.</b></p> <p>12 Q. Okay. And what was that? Did you contact her</p> <p>13 together about both New Heights?</p> <p>14 <b>A. Yeah. Yep.</b></p> <p>15 Q. And that was -- how did that phone call go, or what</p> <p>16 was the discussion?</p> <p>17 <b>A. I mean, I can't even really remember. I think that my</b></p> <p>18 <b>mom did most of the talking, that I can remember.</b></p> <p>19 Q. And how soon after that initial discussion between</p> <p>20 just you and your mom where you realized we need crop</p> <p>21 insurance until you call Chris?</p> <p>22 <b>A. Can you repeat that again?</b></p> <p>23 Q. Yeah-yeah. So you've got the initial conversation --</p> <p>24 <b>A. Yep.</b></p> <p>25 Q. -- is like the end of January --</p>
<p style="text-align: right;">Page 18</p> <p>1 credit, so ...</p> <p>2 Q. So, I guess, when was the first time any discussion</p> <p>3 about needing crop insurance happened?</p> <p>4 <b>A. It had to have been anywhere from the last week of</b></p> <p>5 <b>January to the first week of February.</b></p> <p>6 Q. And that discussion would have been between you and</p> <p>7 your mom or you and Chris or --</p> <p>8 <b>A. Me and my mom.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. Me and my mom, that would be when we started talking</b></p> <p>11 <b>about starting the business, so ...</b></p> <p>12 Q. Okay. And did that discussion involve that there was</p> <p>13 this case going on in any way?</p> <p>14 <b>A. (Shook head.)</b></p> <p>15 Q. No?</p> <p>16 <b>A. I had no idea.</b></p> <p>17 Q. And did that discussion involve getting -- I mean,</p> <p>18 tell me what was discussed other than the fact that</p> <p>19 you needed crop insurance, or was that the extent of</p> <p>20 the first conversation?</p> <p>21 <b>A. I mean, like I said, just to get our line and get</b></p> <p>22 <b>everything lined up the way we needed to run our</b></p> <p>23 <b>business, we -- you have to have crop insurance to</b></p> <p>24 <b>farm.</b></p> <p>25 Q. Okay. So then -- so we've got this end of</p>	<p style="text-align: right;">Page 20</p> <p>1 <b>A. Yep.</b></p> <p>2 Q. -- beginning of February, and then a phone call to</p> <p>3 Chris.</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. How much lag time in between? Was it right away? You</p> <p>6 called her right away?</p> <p>7 <b>A. No, there was probably some lag time, because we still</b></p> <p>8 <b>had a -- we had a lot of stuff going on that we had to</b></p> <p>9 <b>figure out on getting the business initially even</b></p> <p>10 <b>started, so ...</b></p> <p>11 Q. But do you think it would have been in February of '19</p> <p>12 that you reached out to Chris?</p> <p>13 <b>A. It had to have either been February or the first of</b></p> <p>14 <b>March.</b></p> <p>15 Q. Okay. And then -- so you reach out. And if I'm</p> <p>16 understanding your testimony, she basically says,</p> <p>17 "Okay, I'll take care of it"?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. Does she say, "I need X, Y, and Z from you"?</p> <p>20 <b>A. Nope. Not that I can remember.</b></p> <p>21 Q. Okay. But you would have at least supplied her with</p> <p>22 basics about like the company name and --</p> <p>23 <b>A. Yep.</b></p> <p>24 Q. -- formation date and --</p> <p>25 <b>A. Yep.</b></p>

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<p style="text-align: right;">Page 21</p> <p>1 Q. -- who the members were?</p> <p>2 <b>A. Yep.</b></p> <p>3 Q. And how was that communicated to -- to Chris?</p> <p>4 <b>A. Through, I guess, however we emailed it to her.</b></p> <p>5 Q. Email?</p> <p>6 <b>A. Yep.</b></p> <p>7 Q. Okay. Do you know whether you produced any emails or</p> <p>8 correspondence you had with Chris or anybody at Great</p> <p>9 American?</p> <p>10 <b>A. Nope.</b></p> <p>11 Q. And then -- all right. So you have the phone call,</p> <p>12 presumably in February, maybe the beginning of March,</p> <p>13 saying you need crop insurance. She says, "I'll take</p> <p>14 care of it." Then you send her, in some fashion, the</p> <p>15 information we just talked about?</p> <p>16 <b>A. Yep.</b></p> <p>17 Q. Was there any other time before the signature that you</p> <p>18 talked with Chris in any way about crop insurance?</p> <p>19 <b>A. Not that I can remember. Not me, personally.</b></p> <p>20 Q. So how did the meeting come about for her to come to</p> <p>21 Zeeland and meet personally so that you can sign the</p> <p>22 application?</p> <p>23 <b>A. She contacted me and my mom through -- I think it was</b></p> <p>24 <b>a group text, or maybe even gave me a call, and said,</b></p> <p>25 <b>"We're meeting on this date, and we'll sign for the</b></p>	<p style="text-align: right;">Page 23</p> <p>1 <b>A. No, she does not.</b></p> <p>2 Q. Like secretary? Treasurer?</p> <p>3 <b>A. No.</b></p> <p>4 Q. All right. But any records that New Heights II has</p> <p>5 with respect to its file or its application would have</p> <p>6 been produced; is that --</p> <p>7 <b>A. Yep.</b></p> <p>8 Q. -- your understanding?</p> <p>9 Okay. So if I understand correctly, that</p> <p>10 you're kind of juggling the balls at the same time;</p> <p>11 that you're trying to get the crop insurance, but</p> <p>12 you're also trying to get the fund -- or the</p> <p>13 financing --</p> <p>14 <b>A. Yep.</b></p> <p>15 Q. -- at the same time, right?</p> <p>16 <b>A. That's correct.</b></p> <p>17 Q. How many meetings did you have with -- I'm going to</p> <p>18 forget their names -- is it Scott and Mr. Grube?</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. How many meetings did you have with them?</p> <p>21 <b>A. We had two.</b></p> <p>22 Q. Both at your office?</p> <p>23 <b>A. One at our office and then the final one at theirs</b></p> <p>24 <b>when we signed.</b></p> <p>25 Q. To do like a closing?</p>
<p style="text-align: right;">Page 22</p> <p>1 <b>crop insurance."</b></p> <p>2 Q. How soon before that meeting would that contact have</p> <p>3 come, basically, just to arrange the --</p> <p>4 <b>A. I would say probably a week in advance. I don't know.</b></p> <p>5 <b>I can't remember --</b></p> <p>6 Q. Okay.</p> <p>7 <b>A. -- exactly.</b></p> <p>8 Q. So from start to finish, end of January/beginning of</p> <p>9 February to signing in March, there were maybe two to</p> <p>10 four instances of communication?</p> <p>11 <b>A. Yeah.</b></p> <p>12 Q. And the only thing you can remember sending her was</p> <p>13 basic information about the newly-formed --</p> <p>14 <b>A. Yep.</b></p> <p>15 Q. -- New Heights II?</p> <p>16 <b>A. Yep.</b></p> <p>17 Q. Okay. And did she, at any time, share with you what</p> <p>18 she was providing in terms of an application to Great</p> <p>19 American?</p> <p>20 <b>A. Not a whole lot.</b></p> <p>21 Q. Did she give you a copy for your file of what -- of</p> <p>22 the application?</p> <p>23 <b>A. I wouldn't know that. That's something my mom would</b></p> <p>24 <b>know.</b></p> <p>25 Q. Does your mom hold a position in New Heights II?</p>	<p style="text-align: right;">Page 24</p> <p>1 <b>A. Yep, closing.</b></p> <p>2 Q. Okay. And those were in person. Did you have emails</p> <p>3 and phone calls with them besides those two?</p> <p>4 <b>A. Not that -- not a whole lot that I can think of. I</b></p> <p>5 <b>think we had a phone conference with them maybe one or</b></p> <p>6 <b>two times, just asking on the timeline of the line and</b></p> <p>7 <b>when it would get open.</b></p> <p>8 Q. Okay. And what is the overall time frame from the</p> <p>9 very first communication with any of them, with the</p> <p>10 lender, to closing; is it similar like we talked about</p> <p>11 the crop insurance, like January or February until --</p> <p>12 <b>A. No. It probably started -- I think it was the end of</b></p> <p>13 <b>February, first of March, and we didn't close until</b></p> <p>14 <b>probably -- it had to have been the first or second</b></p> <p>15 <b>week of May.</b></p> <p>16 Q. Okay. And was it them that communicated to you the</p> <p>17 requirement of getting crop insurance in order for</p> <p>18 them to be able to get into a lending relationship --</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. -- with you?</p> <p>21 At what point was that communicated to you</p> <p>22 in terms of the discussion?</p> <p>23 <b>A. Just somewhere along the lines of in the -- in that</b></p> <p>24 <b>timeline I just stated. It would just be something</b></p> <p>25 <b>that came up as a requirement.</b></p>



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<p style="text-align: right;">Page 25</p> <p>1 Q. And then you, through Chris, obtained the crop insurance. In what way was that communicated to ARM, the lender?</p> <p>2</p> <p>3</p> <p>4 <b>A. Through Chris.</b></p> <p>5 Q. Do you know if she, on your behalf, had forwarded a copy of the application materials to the lender?</p> <p>6</p> <p>7 <b>A. I -- I don't know.</b></p> <p>8 Q. But in some way, you believe Chris communicated to ARM that New Heights II had procured crop insurance for 2019?</p> <p>9</p> <p>10</p> <p>11 <b>A. Yep.</b></p> <p>12 Q. Okay. Or else the closing wouldn't have happened --</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. -- correct?</p> <p>15 <b>A. Yep.</b></p> <p>16 Q. When Chris met with you in the spring of '19 to sign the application, did you read it?</p> <p>17</p> <p>18 <b>A. Yeah, briefly.</b></p> <p>19 Q. And you thought it was a small-ish document in terms of not being too voluminous?</p> <p>20</p> <p>21 <b>A. Yeah. Like I said, I can't remember exactly, but ...</b></p> <p>22 Q. Did you understand who would be receiving that information once you signed it and Chris sent it out for you?</p> <p>23</p> <p>24</p> <p>25 <b>A. Yep.</b></p>	<p style="text-align: right;">Page 27</p> <p>1 Q. -- on a computer?</p> <p>2 And will you use that going forward in</p> <p>3 terms of future applications for insurance?</p> <p>4 <b>A. We -- I'm pretty sure we don't use our own for our insurance, so no.</b></p> <p>5</p> <p>6 Q. What information do you use?</p> <p>7 <b>A. Well, they'll go off of -- well, they'll take our -- basically, our averages.</b></p> <p>8</p> <p>9 Q. But do you think now that you've started --</p> <p>10 <b>A. I'll use that information for myself.</b></p> <p>11 Q. Do you think that will be used to figure out averages, though, in the future now that you have --</p> <p>12</p> <p>13 <b>A. A year under our belts?</b></p> <p>14 Q. -- information for 2019? Yeah.</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. But you don't know what, if any, information was used for years prior to 2019?</p> <p>17</p> <p>18 <b>A. No.</b></p> <p>19 Q. Do you know what role, if any, APH plays into this young farmer program for being able to obtain crop insurance?</p> <p>20</p> <p>21</p> <p>22 <b>A. No, I do not.</b></p> <p>23 Q. The information that we were just talking that you now are capturing, now that you've got operations, you've got a year under the belt, will that information get</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. Which is who?</p> <p>2 <b>A. It would be Great American.</b></p> <p>3 Q. Okay. And what about the federal government?</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. Did you know Chris -- I know that you were new to New Heights II and to crop insurance from that entity, but had you known Chris prior from her relationship with the family company?</p> <p>6</p> <p>7</p> <p>8</p> <p>9 <b>A. Yeah, I met her prior. She's boughten some of my 4-H animals from the fair, livestock auction.</b></p> <p>10</p> <p>11 Q. What type of insurance did New Heights II purchase in terms of what was covered, what was under the policy?</p> <p>12</p> <p>13 <b>A. I don't know.</b></p> <p>14 Q. For 2019, did you start collecting production history information for New Heights II?</p> <p>15</p> <p>16 <b>A. In 2019?</b></p> <p>17 Q. Yeah.</p> <p>18 <b>A. At the end of the season?</b></p> <p>19 Q. Yep.</p> <p>20 <b>A. Yep.</b></p> <p>21 Q. Okay. And how is that done?</p> <p>22 <b>A. Through GPS and our combines' GS-3 screens, and then transferred onto a computer.</b></p> <p>23</p> <p>24 Q. And so you store that data now on the --</p> <p>25 <b>A. Yep.</b></p>	<p style="text-align: right;">Page 28</p> <p>1 sent to Chris at any point?</p> <p>2 <b>A. I don't know yet.</b></p> <p>3 Q. Has she asked for it?</p> <p>4 <b>A. Nope.</b></p> <p>5 Q. Have you started applying for insurance for 2020?</p> <p>6 <b>A. Nope.</b></p> <p>7 Q. Do you plan to proceed in 2020 under New Heights Farm II?</p> <p>8</p> <p>9 <b>A. Yep.</b></p> <p>10 Q. Have you discussed any new entity for 2020 --</p> <p>11 <b>A. No.</b></p> <p>12 Q. -- with anyone?</p> <p>13 Do you know what happens if a grower does not have APH for the farms? You know, for -- like, for instance, if you -- if you don't think New Heights Farm II had an APH when it was created, then what happens from there?</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 <b>A. No, I do not.</b></p> <p>19 Q. I think we already covered that you're not sure whether the program that was referenced to you as a young farmer is the, quote, beginning farmer and rancher program? Do you know if that's the program?</p> <p>20</p> <p>21</p> <p>22</p> <p>23 <b>A. It could be.</b></p> <p>24 Q. But you've not undertaken an independent review of the rules that apply to that --</p> <p>25</p>



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Pages 29–32

<p style="text-align: right;">Page 29</p> <p>1 <b>A. No.</b></p> <p>2 Q. -- program?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Or any program?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Okay. We talked a little bit that Chris said to you</p> <p>7 that by getting that program, it gives you some added</p> <p>8 benefits, right?</p> <p>9 <b>A. Yep.</b></p> <p>10 Q. Forgive me if you already said what they were, but do</p> <p>11 you have an understanding or did she communicate to</p> <p>12 you what some of those benefits specifically are?</p> <p>13 <b>A. Like I said, it was very little. She just mentioned</b></p> <p>14 <b>those two little things to me.</b></p> <p>15 Q. Which were? I'm sorry, what were the two?</p> <p>16 <b>A. You can get some -- a deduction off your insurance</b></p> <p>17 <b>price because of your age and just being it's your</b></p> <p>18 <b>first year as a farmer.</b></p> <p>19 Q. Okay.</p> <p>20 <b>A. It's just what she briefed me on.</b></p> <p>21 Q. Have you ever heard of anything called "new producer</p> <p>22 rules"?</p> <p>23 <b>A. Nope.</b></p> <p>24 Q. Is your -- was your insurance for 2019, for New</p> <p>25 Heights Farm II, did it cost less, I guess, in</p>	<p style="text-align: right;">Page 31</p> <p>1 differences in what was covered in terms of policies</p> <p>2 between --</p> <p>3 <b>A. No, I do not.</b></p> <p>4 Q. Do you know if New Heights II had a band policy? I</p> <p>5 think we talked about that ARMtech, or whatever it was</p> <p>6 called, that additional policy that --</p> <p>7 <b>A. Yes, I think we do. Yes, we have the additional</b></p> <p>8 <b>ARMtech and then the band policy.</b></p> <p>9 Q. Which is the ARMtech, right?</p> <p>10 <b>A. Yeah.</b></p> <p>11 Q. And did you execute personal guarantees for the New</p> <p>12 Heights Farm II loan?</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. I believe your mom did the same for New Heights I,</p> <p>15 right?</p> <p>16 <b>A. Yep.</b></p> <p>17 Q. Does New Heights Farm II have any leases with any --</p> <p>18 any entity with the name Boersen in it for leases of</p> <p>19 equipment?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. What equipment?</p> <p>22 <b>A. What equipment?</b></p> <p>23 Q. Yeah.</p> <p>24 <b>A. So combines, tractors.</b></p> <p>25 Q. And that's the same kind of stuff that you operated</p>
<p style="text-align: right;">Page 30</p> <p>1 premiums than New Heights I?</p> <p>2 <b>A. I don't know.</b></p> <p>3 Q. Would you expect it to?</p> <p>4 <b>A. I'm not really sure.</b></p> <p>5 Q. Well, wouldn't that be one of the benefits?</p> <p>6 <b>A. I mean, I guess you could expect it to.</b></p> <p>7 Q. Because I think we heard your mom testify earlier that</p> <p>8 New Heights I was not going under that program, right?</p> <p>9 <b>A. But there could be a lot of different factors into</b></p> <p>10 <b>that, too, because she could farm more acres, too.</b></p> <p>11 Q. Well, didn't she say that New Heights Farm I and II</p> <p>12 split 15,000 --</p> <p>13 <b>A. Yeah, they're basically split, but I'm just saying, it</b></p> <p>14 <b>could be.</b></p> <p>15 Q. But knowing -- knowing only what we've talked about,</p> <p>16 unless there is some other information that you know</p> <p>17 and want to tell me, that doing the equal number of</p> <p>18 acres and under similar policies, you should have a</p> <p>19 more affordable premium --</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. -- payment based on --</p> <p>22 <b>A. Yep.</b></p> <p>23 Q. -- the young farmer program?</p> <p>24 <b>A. Yep. Exactly.</b></p> <p>25 Q. Okay. Do you know what -- any discrepancies in -- or</p>	<p style="text-align: right;">Page 32</p> <p>1 before you were an owner, right?</p> <p>2 <b>A. Yep.</b></p> <p>3 Q. All right. Is any of the equipment the actual same --</p> <p>4 <b>A. No.</b></p> <p>5 Q. -- combine or tractor?</p> <p>6 <b>A. Not one piece.</b></p> <p>7 Q. No? What happened to those other pieces?</p> <p>8 <b>A. It all got repossessed.</b></p> <p>9 Q. By --</p> <p>10 <b>A. I don't know.</b></p> <p>11 Q. -- Ceres? Somebody else?</p> <p>12 <b>A. I have no idea.</b></p> <p>13 Q. Okay. Do you know how, whatever Boersen is leasing</p> <p>14 under your -- under the New Heights Farm II lease, how</p> <p>15 they were able then to obtain this equipment to lease?</p> <p>16 <b>A. I don't know.</b></p> <p>17 Q. A balance sheet for New Heights Farm II, dated</p> <p>18 March 27th of '19, says 10,000 in cash. Was that just</p> <p>19 your own personal funds, or yours and your mom's? I</p> <p>20 think maybe she testified earlier it was just personal</p> <p>21 savings or whatever?</p> <p>22 <b>A. Yep.</b></p> <p>23 Q. So it looks like your equipment services agreement,</p> <p>24 the Boer- -- we keep talking about a Boersen entity.</p> <p>25 It looks like it's Boersen Farms &amp; Affiliates, LLC.</p>

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<p style="text-align: right;">Page 33</p> <p>1 Does that sound right?</p> <p>2 <b>A. Yep.</b></p> <p>3 Q. And do you know who the members of that LLC are?</p> <p>4 <b>A. I do not.</b></p> <p>5 Q. Who was your contact person from Boersen Farms &amp;</p> <p>6 Affiliates, LLC?</p> <p>7 <b>A. That would be my dad.</b></p> <p>8 Q. Okay. So do you think at least he is a member of</p> <p>9 Boersen Farms --</p> <p>10 <b>A. I'm not very sure.</b></p> <p>11 Q. You don't know any of the members?</p> <p>12 <b>A. Nope. I don't know any of them.</b></p> <p>13 Q. But the only person that you talked to for the</p> <p>14 equipment services agreement from the other</p> <p>15 contracting party was your dad?</p> <p>16 <b>A. Yep.</b></p> <p>17 Q. And it looks like the fee for that agreement was</p> <p>18 \$75,000 per month --</p> <p>19 <b>A. That is correct.</b></p> <p>20 Q. -- on or before the first day of each month commencing</p> <p>21 May 1, 2019.</p> <p>22 Do you know how that figure was reached,</p> <p>23 the 75,000?</p> <p>24 <b>A. Fair market value on all the equipment.</b></p> <p>25 Q. Do you know how the fair market value was calculated?</p>	<p style="text-align: right;">Page 35</p> <p>1 <b>A. No.</b></p> <p>2 Q. -- that equipment?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Okay. Well, it sounds like we figured out the answer</p> <p>5 to one of the earlier questions, what does your dad do</p> <p>6 now? He gets at least \$75,000 a month to his company</p> <p>7 in your lease, right?</p> <p>8 <b>A. I don't know if it's his company or not.</b></p> <p>9 Q. Well, you didn't talk to anyone else from that</p> <p>10 company, right?</p> <p>11 <b>A. No.</b></p> <p>12 Q. Okay. And is that who New Heights I has a lease with</p> <p>13 for its equipment?</p> <p>14 <b>A. I believe so.</b></p> <p>15 Q. Under the same financial arrangement: \$75,000 a</p> <p>16 month, I think is what we talked about earlier? Is</p> <p>17 that right?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. Okay. Do you know when Boersen Farms &amp; Affiliates,</p> <p>20 LLC was established?</p> <p>21 <b>A. No idea.</b></p> <p>22 Q. Those \$75,000 payments, how are they made? Is there a</p> <p>23 direct deposit or do you write a check?</p> <p>24 <b>A. I assume it's direct deposit.</b></p> <p>25 Q. And do you know whether the payment -- the payment</p>
<p style="text-align: right;">Page 34</p> <p>1 <b>A. Through the FSA.</b></p> <p>2 Q. And is New Heights II current on those payments?</p> <p>3 <b>A. Yep.</b></p> <p>4 Q. And I take it that was through the funding from the --</p> <p>5 from ARM --</p> <p>6 <b>A. Yep.</b></p> <p>7 Q. -- that you're able to make those?</p> <p>8 And that's the same funding that paid for</p> <p>9 the farmland lease --</p> <p>10 <b>A. Yep.</b></p> <p>11 Q. -- with Ceres, right?</p> <p>12 <b>A. Yep.</b></p> <p>13 Q. Okay. And so I would assume -- but I guess that's why</p> <p>14 we're here is to ask the questions -- Boersen Farms &amp;</p> <p>15 Affiliates, LLC has some kind of security or</p> <p>16 repossession right on the equipment, like if you don't</p> <p>17 pay?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. Okay. And do you know whether any other entity has</p> <p>20 any security interest in that equipment, such as a</p> <p>21 creditor of Boersen Farms &amp; Affiliates --</p> <p>22 <b>A. I have no idea.</b></p> <p>23 Q. -- LLC?</p> <p>24 And you don't know where your dad got</p> <p>25 those --</p>	<p style="text-align: right;">Page 36</p> <p>1 information or documentation has been produced?</p> <p>2 <b>A. I have no idea.</b></p> <p>3 Q. For Boersen Farms &amp; Affiliates, LLC, the State of</p> <p>4 Michigan website says it's organized November 1, 2016.</p> <p>5 Is that consistent with your understanding --</p> <p>6 <b>A. I don't know.</b></p> <p>7 Q. -- a resident agent of Dennis Boersen?</p> <p>8 Well, you just -- you already testified</p> <p>9 that's just the only person you've dealt with from</p> <p>10 that organization, right?</p> <p>11 <b>A. (Nodded head.)</b></p> <p>12 Q. Right?</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. How many pieces of equipment are you leasing from</p> <p>15 Boersen Farms &amp; Affiliates, LLC?</p> <p>16 <b>A. I can't tell you off the top of my head.</b></p> <p>17 Q. More than two?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. More than five?</p> <p>20 <b>A. I don't know about more than five.</b></p> <p>21 Q. Somewhere in the neighborhood of two to five pieces?</p> <p>22 <b>A. I couldn't be specific. I don't know off the top of</b></p> <p>23 <b>my head.</b></p> <p>24 Q. Well, does the price vary from 75,000 a month</p> <p>25 depending on what you're using?</p>

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<p style="text-align: right;">Page 37</p> <p>1 <b>A. No.</b></p> <p>2 Q. So that fair market value has in mind very specific</p> <p>3 pieces of equipment, however many they are, right?</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. Do you know whether Boersen Farms &amp; Affiliates, LLC</p> <p>6 does anything besides lease farming equipment?</p> <p>7 <b>A. I have no idea.</b></p> <p>8 Q. So you don't know whether it farms?</p> <p>9 <b>A. Nope.</b></p> <p>10 Q. Now, it looks like you also have a lease with Boersen</p> <p>11 Farms, Inc.?</p> <p>12 <b>A. That's correct.</b></p> <p>13 Q. And what is that lease for?</p> <p>14 <b>A. Land.</b></p> <p>15 Q. Okay. So you're farming land: some owned by Ceres;</p> <p>16 some owned by Boersen Farms, Inc.?</p> <p>17 <b>A. Yes, and some third parties.</b></p> <p>18 Q. So you have leases with, basically, anybody --</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. -- you're farming with; that if it's not you -- does</p> <p>21 New Heights Farm II own any --</p> <p>22 <b>A. Nope.</b></p> <p>23 Q. No?</p> <p>24 <b>A. Don't own anything.</b></p> <p>25 Q. So for 2020 -- or I'm sorry. Coming due on March 15,</p>	<p style="text-align: right;">Page 39</p> <p>1 <b>the month.</b></p> <p>2 Q. Of this month?</p> <p>3 <b>A. Yep.</b></p> <p>4 Q. Okay. And the purpose of the claim would be that the</p> <p>5 growing season is over and it didn't yield as</p> <p>6 anticipated --</p> <p>7 <b>A. Yep.</b></p> <p>8 Q. -- or what the --</p> <p>9 <b>A. Correct.</b></p> <p>10 Q. Who prepared and filed the documents to -- to make New</p> <p>11 Heights II exist with the State, as a company?</p> <p>12 <b>A. Me and my mom did.</b></p> <p>13 Q. Did Ceres make any sort of -- well, no, you paid Ceres</p> <p>14 up front for the entire crop year, right?</p> <p>15 <b>A. Yep.</b></p> <p>16 Q. I think that's what Steve Cardinal testified. As soon</p> <p>17 as you got the loan back in May, you paid like 3-1/2</p> <p>18 million, or something like that --</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. -- right, to Ceres?</p> <p>21 <b>A. (Nodded head.)</b></p> <p>22 Q. Do you know whether the property you leased from</p> <p>23 Boersen Farms, Inc., is available for this year to --</p> <p>24 to farm again?</p> <p>25 <b>A. I do not yet.</b></p>
<p style="text-align: right;">Page 38</p> <p>1 2020, you have a note -- or New Heights Farm II has a</p> <p>2 note with Agrifarm -- or ARM for a little over four</p> <p>3 million. Is that the loan amount?</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. And is the 2019 crop, is that what is expected to</p> <p>6 pay -- you know, sale of that crop is what's expected</p> <p>7 to be able to make that payment?</p> <p>8 <b>A. Yep. That, and crop insurance.</b></p> <p>9 Q. Are you expecting to meet that obligation this year?</p> <p>10 <b>A. Yep.</b></p> <p>11 Q. And are you expecting or have you had to make a claim</p> <p>12 to the insurance to meet that?</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. What was the -- what was the claim?</p> <p>15 <b>A. I couldn't tell you off the top of my head.</b></p> <p>16 Q. When was the claim made?</p> <p>17 <b>A. I can't -- couldn't tell ya.</b></p> <p>18 Q. Did you do it or did someone else do it?</p> <p>19 <b>A. No, I did it.</b></p> <p>20 Q. Would it have been in the last 15 days, in 2020?</p> <p>21 <b>A. No.</b></p> <p>22 Q. In the fall?</p> <p>23 <b>A. No.</b></p> <p>24 Q. In the spring?</p> <p>25 <b>A. No. It'd be -- it'd be probably around the first of</b></p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay. Are you aware that there have been several</p> <p>2 notices within the last couple of months of</p> <p>3 foreclosures --</p> <p>4 <b>A. Nope.</b></p> <p>5 Q. -- on Boersen properties?</p> <p>6 So you don't know whether this one is one</p> <p>7 of them or not?</p> <p>8 <b>A. Nope.</b></p> <p>9 Q. I shouldn't say one. Maybe you should clarify for me</p> <p>10 how much property New Heights II leases from Boersen</p> <p>11 Farms, Inc.</p> <p>12 <b>A. I couldn't be exact.</b></p> <p>13 Q. It looks like Exhibit A to the lease talks about farm</p> <p>14 number 8533, approximately -- almost 150 acres in</p> <p>15 Eaton County.</p> <p>16 <b>A. Yep.</b></p> <p>17 Q. Does that sound -- does that sound right?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. So you're assuming -- is it fair to say that you're</p> <p>20 assuming that whatever requirements there may be that</p> <p>21 you've not reviewed in terms of any new beginning</p> <p>22 farmer/rancher for some crop insurance would have been</p> <p>23 followed by Chris --</p> <p>24 <b>A. Yep.</b></p> <p>25 Q. -- the agent, right?</p>

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<p style="text-align: right;">Page 41</p> <p>1 <b>A. Yep.</b></p> <p>2 Q. Did Ceres ever have any discussions with you,</p> <p>3 comments, or questions at all about this lawsuit when</p> <p>4 you were, you know, seeking to lease land as -- under</p> <p>5 New Heights -- for New Heights II?</p> <p>6 <b>A. Not that I'm aware of.</b></p> <p>7 Q. Not that you were personally involved in?</p> <p>8 <b>A. No.</b></p> <p>9 Q. Okay. What about ARM?</p> <p>10 <b>A. Nope.</b></p> <p>11 Q. Was ARM aware of this lawsuit?</p> <p>12 <b>A. Nope.</b></p> <p>13 Q. Did you ever make them aware?</p> <p>14 <b>A. Nope.</b></p> <p>15 Q. Do you know if whether your mom did or your dad did?</p> <p>16 <b>A. I'm not sure.</b></p> <p>17 Q. Do you think it would have made a difference to ARM if</p> <p>18 they'd have known about this lawsuit in terms of the</p> <p>19 financing for the 2019 crop year for New Heights Farm</p> <p>20 I or II?</p> <p>21 <b>A. I'm not sure, but, yeah, probably would have made a</b></p> <p>22 <b>big impact.</b></p> <p>23 Q. In what way do you think?</p> <p>24 <b>A. Probably a very negative way.</b></p> <p>25 Q. Like they -- they wouldn't have lent the money?</p>	<p style="text-align: right;">Page 43</p> <p>1 what they're doing now? You can take them one by one.</p> <p>2 <b>A. I guess just probably, as a whole, it just is a whole</b></p> <p>3 <b>different company and a whole different structure.</b></p> <p>4 Q. All right. So Kushmaul, for example, what is he doing</p> <p>5 for --</p> <p>6 <b>A. Well, he's still doing the same.</b></p> <p>7 Q. Which is what?</p> <p>8 <b>A. He's -- he is my groundamist [sic].</b></p> <p>9 Q. Grounds.</p> <p>10 <b>A. And the other two guys are truck drivers. One is a</b></p> <p>11 <b>truck mechanic.</b></p> <p>12 Q. And those guys are who?</p> <p>13 <b>A. The two truck drivers would be Brian Goodrich and Cory</b></p> <p>14 <b>Tom, and then Mike Carlock is my truck mechanic.</b></p> <p>15 Q. Okay. And what did they do -- so I think what you</p> <p>16 just said is what they do for you now, right?</p> <p>17 <b>A. They -- right now, they drive truck for me. Before,</b></p> <p>18 <b>they used to operate machinery, I guess. I couldn't</b></p> <p>19 <b>tell you exactly what they did, because I didn't work</b></p> <p>20 <b>with all them guys all the time.</b></p> <p>21 Q. Okay.</p> <p>22 <b>A. I was only part-time.</b></p> <p>23 Q. Fair enough. You were with us earlier. You heard the</p> <p>24 testimony with your mom about who Blain Becktold was</p> <p>25 and the Down On The Farm Company. Do you remember</p>
<p style="text-align: right;">Page 42</p> <p>1 <b>A. Yep.</b></p> <p>2 Q. Has ARM since become aware of the lawsuit?</p> <p>3 <b>A. I'm not sure.</b></p> <p>4 Q. You haven't talked to anyone from there about it?</p> <p>5 <b>A. Nope.</b></p> <p>6 Q. I previously, I think it was early last May, took the</p> <p>7 deposition of Mr. Kushmaul. But other than that, I'm</p> <p>8 not familiar with your other employees.</p> <p>9 Did any of them, besides Mr. Kushmaul --</p> <p>10 well, let me back up.</p> <p>11 Mr. Kushmaul has worked for Boersen</p> <p>12 entities before working for New Heights II, right?</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. Any of the other employees?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. Who?</p> <p>17 <b>A. It'd be Brian Goodrich -- well, basically, all of them</b></p> <p>18 <b>I named right there, including Bill.</b></p> <p>19 Q. What -- did they have the same positions as they had</p> <p>20 with New Heights II as what they had with prior --</p> <p>21 legacy Boersen entities?</p> <p>22 <b>A. Ah, no.</b></p> <p>23 Q. Different?</p> <p>24 <b>A. Yeah.</b></p> <p>25 Q. What did -- what did each of them do before versus</p>	<p style="text-align: right;">Page 44</p> <p>1 that?</p> <p>2 <b>A. I don't know who that is.</b></p> <p>3 Q. Did he ever do any certifications, or has it always</p> <p>4 been your mom or someone else for the -- for the New</p> <p>5 Heights II crop?</p> <p>6 <b>A. It's been my mom and myself.</b></p> <p>7 Q. Okay. And I forget what your mom said, so -- I</p> <p>8 honestly don't remember, but was there something</p> <p>9 that -- some kind of certification that has to be</p> <p>10 gained to be able to do that, or you just have to</p> <p>11 learn how to do it?</p> <p>12 <b>A. Just learn how.</b></p> <p>13 Q. Okay. The claim you just talked about -- or that you</p> <p>14 filed that you think was roughly around the first of</p> <p>15 the year but you don't remember for how much, is it</p> <p>16 fair for me to assume that's the only insurance claim</p> <p>17 you've ever made?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. Okay. Do you know whether the documents for that</p> <p>20 claim have been produced?</p> <p>21 <b>A. I do not know.</b></p> <p>22 Q. And you said Chris made the claim for you?</p> <p>23 <b>A. She did not make the claim. I made the claim.</b></p> <p>24 Q. Right. I'm sorry, you said that, you made the claim.</p> <p>25 What was -- what did it entail to make the</p>

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<p style="text-align: right;">Page 45</p> <p>1 claim; was it a form that you had to fill out?</p> <p>2 <b>A. Yeah.</b></p> <p>3 Q. And then you mailed that?</p> <p>4 <b>A. Yeah. Yep. Yep.</b></p> <p>5 Q. And you mailed it to where: your agent in the</p> <p>6 Petoskey area?</p> <p>7 <b>A. Yeah, it would be Chris.</b></p> <p>8 Q. Directly to Chris?</p> <p>9 <b>A. She's the -- all in all, she's the middleman, so --</b></p> <p>10 Q. Okay. So then --</p> <p>11 <b>A. -- as you could call her.</b></p> <p>12 Q. So then she would determine --</p> <p>13 <b>A. Yep.</b></p> <p>14 Q. -- to send it on --</p> <p>15 <b>A. Yep.</b></p> <p>16 Q. -- to Great American --</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. -- or something?</p> <p>19 Okay. And you expected that she sent that</p> <p>20 to her home office --</p> <p>21 <b>A. Yep.</b></p> <p>22 Q. -- her employer?</p> <p>23 <b>A. Yep.</b></p> <p>24 Q. And then have you received -- well, I guess not if you</p> <p>25 don't know -- if you don't remember the payment.</p>	<p style="text-align: right;">Page 47</p> <p>1 other sort of expenses of operation do you have?</p> <p>2 <b>A. It would be my seed and fertilizer costs.</b></p> <p>3 Q. And that's Logan?</p> <p>4 <b>A. Yep.</b></p> <p>5 Q. And are they paid off?</p> <p>6 <b>A. They will get paid off after ARM does.</b></p> <p>7 Q. Okay. All right. So, yeah, we talked about that with</p> <p>8 your mom.</p> <p>9 <b>A. Yep. Yep.</b></p> <p>10 Q. And that will be part of -- also, that will -- will</p> <p>11 their payment be covered if you get -- if your claim</p> <p>12 is fulfilled, if your insurance claim --</p> <p>13 <b>A. I assume so.</b></p> <p>14 Q. -- you'll have enough money for everybody?</p> <p>15 <b>A. I would assume so.</b></p> <p>16 Q. All right. And then you probably have, besides all</p> <p>17 those, your employees' wages, right?</p> <p>18 <b>A. Yep.</b></p> <p>19 Q. Anything else?</p> <p>20 <b>A. No. Not that I'm aware of.</b></p> <p>21 Q. When equipment needs repair or upkeep or gas or</p> <p>22 whatever, is that all covered as part of the lease?</p> <p>23 Like as long as you're paying the --</p> <p>24 <b>A. I'd have to look at the lease.</b></p> <p>25 MR. MAGYAR: All right. I think this is a</p>
<p style="text-align: right;">Page 46</p> <p>1 You haven't received the payout on that?</p> <p>2 <b>A. Nope.</b></p> <p>3 Q. Or have you even received a determination from the</p> <p>4 insurer, like a --</p> <p>5 <b>A. Not that I'm aware of.</b></p> <p>6 Q. But you're expecting that it will be covered and paid?</p> <p>7 <b>A. Hopefully.</b></p> <p>8 Q. Yeah. And then if I understand the way this works</p> <p>9 correctly, then that will be turned right over to ARM</p> <p>10 to make up the rest of this promissory note payment</p> <p>11 coming due three months from now -- or two months from</p> <p>12 now, March 15th, right?</p> <p>13 <b>A. (Nodded head.)</b></p> <p>14 MR. VANDER VEEN: You have to answer</p> <p>15 verbally.</p> <p>16 <b>THE WITNESS: Yep.</b></p> <p>17 BY MR. MAGYAR:</p> <p>18 Q. Anywhere else those funds are earmarked for or</p> <p>19 directed to?</p> <p>20 <b>A. Nothing specific.</b></p> <p>21 Q. Because everything else, if I'm understanding, is paid</p> <p>22 off already in terms of rent -- leases, equipment</p> <p>23 leases?</p> <p>24 <b>A. Yep. Yep.</b></p> <p>25 Q. So besides equipment leases and land leases, what</p>	<p style="text-align: right;">Page 48</p> <p>1 good time for a break, and I'm going to see what that</p> <p>2 missed call was and also speak with Amanda, and then</p> <p>3 we'll see how much more we've got here.</p> <p>4 MR. VANDER VEEN: Sounds good. Thank you.</p> <p>5 (Off the record at 2:27 p.m.)</p> <p>6 (Back on the record at 2:44 p.m.)</p> <p>7 BY MR. MAGYAR:</p> <p>8 Q. All right. I don't think we'll be here much longer,</p> <p>9 like when I took that break for your mom. I guess a</p> <p>10 few just follow-ups on some of the things we talked</p> <p>11 about.</p> <p>12 I didn't ask you earlier, but are you doing</p> <p>13 anything else in terms of employment besides running</p> <p>14 New Heights II?</p> <p>15 <b>A. No.</b></p> <p>16 Q. That's full-time?</p> <p>17 <b>A. Yep.</b></p> <p>18 Q. How many hours a week do you think?</p> <p>19 <b>A. During harvest season, it was anywhere from 80 to 100,</b></p> <p>20 <b>and now it's back down to about 40.</b></p> <p>21 Q. Just like a normal person?</p> <p>22 <b>A. Yep. Yep.</b></p> <p>23 Q. And were you going to do more with GRCC in terms of</p> <p>24 the business degree, or now you're just focused solely</p> <p>25 on New Heights II?</p>

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<p style="text-align: right;">Page 49</p> <p>1 <b>A.</b> Basically, I mean, I went to GRCC a full semester, and</p> <p>2 it just wasn't -- I mean, college just wasn't for me.</p> <p>3 I just like being more hands-on --</p> <p>4 Q. Got it.</p> <p>5 <b>A.</b> -- kind of a worker.</p> <p>6 Q. Have you ever been involved -- or, I guess, I should</p> <p>7 limit it to New Heights II. We talked earlier that</p> <p>8 there's the claim and the lien and that funds will go</p> <p>9 towards Logan and ARM.</p> <p>10 Have you ever been part of any crop-sharing</p> <p>11 arrangement?</p> <p>12 <b>A.</b> Nope.</p> <p>13 Q. Like where you farmed land owned by someone else --</p> <p>14 <b>A.</b> No.</p> <p>15 Q. -- and share in the profits?</p> <p>16 <b>A.</b> No.</p> <p>17 Q. Or you don't -- you don't have anyone else come in and</p> <p>18 farm and share profits with them --</p> <p>19 <b>A.</b> No.</p> <p>20 Q. -- for New Heights II?</p> <p>21 Okay. This may sound like a silly</p> <p>22 question, but I just -- because it sounds like there's</p> <p>23 a long-standing relationship with Chris, the agent, is</p> <p>24 she family in any way --</p> <p>25 <b>A.</b> No.</p>	<p style="text-align: right;">Page 51</p> <p>1 <b>A.</b> Corn and a little bit of soybeans.</p> <p>2 Q. But both are used for that purpose, for those --</p> <p>3 <b>A.</b> Yep.</p> <p>4 Q. -- end users?</p> <p>5 And in terms of your claim, your insurance</p> <p>6 claim, the pending claim, would it be accurate to say</p> <p>7 that if you had yielded more corn and soybean, they</p> <p>8 would have purchased it, and there is just a lack of</p> <p>9 yield that resulted in the claim?</p> <p>10 <b>A.</b> It depends what -- what the claim's on.</p> <p>11 Q. What was this claim?</p> <p>12 <b>A.</b> I couldn't tell ya off the top of my head.</p> <p>13 Q. But you -- you did the claim? I guess let me back up.</p> <p>14 What I'm trying to figure out is: Would</p> <p>15 Carbon Green and/or The Andersons have purchased more</p> <p>16 crop if there was crop?</p> <p>17 <b>A.</b> I can't say that.</p> <p>18 Q. But did you have contracts with them?</p> <p>19 <b>A.</b> Yeah, we had contracts with Carbon Green.</p> <p>20 Q. Do you know whether those have been produced?</p> <p>21 <b>A.</b> I have no idea.</p> <p>22 Q. Do you know the terms of those contracts?</p> <p>23 <b>A.</b> No, I do not.</p> <p>24 Q. Do you know if it's a requirements contract?</p> <p>25 <b>A.</b> Nope, I do not.</p>
<p style="text-align: right;">Page 50</p> <p>1 Q. -- or just a friend?</p> <p>2 <b>A.</b> Just a friend.</p> <p>3 Q. Okay. Who does New Heights II, at least for 2019 -- I</p> <p>4 guess that's the only crop year there's been -- who</p> <p>5 are the end customers or the buyer of the crop?</p> <p>6 <b>A.</b> It'd be Carbon Green.</p> <p>7 Q. What is that?</p> <p>8 <b>A.</b> That's in Ionia.</p> <p>9 Q. Okay. What was it? Carve?</p> <p>10 <b>A.</b> Carbon Green.</p> <p>11 Q. Oh, Carbon Green?</p> <p>12 <b>A.</b> Yep.</p> <p>13 Q. And what does Carbon Green do?</p> <p>14 <b>A.</b> They're an ethanol plant, a buyer of the corn, if</p> <p>15 that's the -- is that what you're asking?</p> <p>16 Q. Yeah, it is. Yep.</p> <p>17 Are they the sole customer? Everything you</p> <p>18 produce goes to them?</p> <p>19 <b>A.</b> Basically. We sell some to The Andersons, but ...</p> <p>20 Q. Who are The Andersons?</p> <p>21 <b>A.</b> Ethanol plant, as well.</p> <p>22 Q. Oh, like Andersons, Inc.?</p> <p>23 <b>A.</b> Yep.</p> <p>24 Q. Okay. Is corn the only crop you do for New Heights</p> <p>25 II?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. So in some fashion, you had a shortfall, or else</p> <p>2 there'd be no claim, right?</p> <p>3 <b>A.</b> Yep.</p> <p>4 Q. But you don't know if that's because of an inability</p> <p>5 to meet the customer demand or contract or --</p> <p>6 <b>A.</b> Oh, that ain't -- no, that ain't because we can't meet</p> <p>7 the customer contract, no.</p> <p>8 Q. It's because yield didn't match the expectation?</p> <p>9 <b>A.</b> Yep.</p> <p>10 Q. Okay.</p> <p>11 <b>A.</b> Exactly.</p> <p>12 Q. All right. And if it had met the expectation, I mean,</p> <p>13 there would have been more crop, right?</p> <p>14 <b>A.</b> Yeah.</p> <p>15 Q. Then you presumably would have been able to sell it to</p> <p>16 one of these customers?</p> <p>17 <b>A.</b> Correct.</p> <p>18 Q. Now, I think as we've mentioned, we're working through</p> <p>19 other sources like the government and Great American</p> <p>20 to obtain more documents regarding crop insurance.</p> <p>21 But from what we've obtained so far, it</p> <p>22 looks like there is some data for actual production</p> <p>23 history provided for New Heights Farm II, LLC from</p> <p>24 prior to 2019. Do you know where that would have come</p> <p>25 from?</p>



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<p style="text-align: right;">Page 53</p> <p>1 <b>A. No.</b></p> <p>2 Q. Would you have had any involvement in preparing that?</p> <p>3 <b>A. Nope.</b></p> <p>4 Q. Any communications with Chris about that?</p> <p>5 <b>A. Nope.</b></p> <p>6 Q. Do you expect that it was wherever she pulled the data</p> <p>7 from, it would have been Chris doing that?</p> <p>8 <b>A. For what?</b></p> <p>9 Q. For production history for the land that New Heights</p> <p>10 Farm II farms on --</p> <p>11 <b>A. Yep.</b></p> <p>12 Q. -- prior to 2019.</p> <p>13 <b>A. No, because I have nothing prior to 2019.</b></p> <p>14 Q. So data pulled for that purpose would have been pulled</p> <p>15 by Chris?</p> <p>16 <b>A. Prior to 2019?</b></p> <p>17 Q. Yeah.</p> <p>18 <b>A. I don't know.</b></p> <p>19 Q. Okay. Because, I mean, the land existed. It might</p> <p>20 have been farmed. It just wasn't --</p> <p>21 <b>A. Yeah, I don't know.</b></p> <p>22 MR. MAGYAR: All right. An hour and ten</p> <p>23 minutes. That's pretty painless, right?</p> <p>24 <b>THE WITNESS: Yeah.</b></p> <p>25 MR. MAGYAR: I'm done, unless you've got</p>	<p style="text-align: right;">Page 55</p> <p>1 times?</p> <p>2 <b>A. Yep, part-time guys that come in in the fall.</b></p> <p>3 Q. Okay. Some in the spring, too?</p> <p>4 <b>A. Spring, too.</b></p> <p>5 Q. For planting?</p> <p>6 <b>A. Yep.</b></p> <p>7 Q. Okay. The ones that you've used -- obviously, you</p> <p>8 only have one season of production under your belt?</p> <p>9 <b>A. Yep.</b></p> <p>10 Q. The ones that you used as contract workers, did they</p> <p>11 work for the old Boersen entities before?</p> <p>12 <b>A. Only one.</b></p> <p>13 Q. Okay.</p> <p>14 <b>A. There's about three to five others, depending on the</b></p> <p>15 <b>weekend.</b></p> <p>16 MR. VANDER VEEN: Okay. I have no other</p> <p>17 questions.</p> <p>18 MR. MAGYAR: The only other thing I want to</p> <p>19 say for the record is -- I didn't repeat myself, but</p> <p>20 just so there's no confusion, the same thing I put on</p> <p>21 the record at the very beginning of the day with</p> <p>22 Stacy's applies to this deposition, as well, in terms</p> <p>23 of perhaps seeking the right to redepose if we get</p> <p>24 some records that are still under requests of Great</p> <p>25 American, as well as the issue of having both</p>
<p style="text-align: right;">Page 54</p> <p>1 any.</p> <p>2 MR. VANDER VEEN: I have a couple of</p> <p>3 questions just to clarify a couple of things.</p> <p>4 EXAMINATION</p> <p>5 BY MR. VANDER VEEN:</p> <p>6 Q. Nick, you had indicated that you had filed a crop</p> <p>7 insurance claim.</p> <p>8 Do you recall going out and measuring the</p> <p>9 crop?</p> <p>10 <b>A. Yep.</b></p> <p>11 Q. Okay. And when you -- you signed a form after that?</p> <p>12 <b>A. Yep.</b></p> <p>13 Q. Was that a claim form or a crop measurement form?</p> <p>14 <b>A. It was a crop measurement form.</b></p> <p>15 Q. Okay. And after we talked about it during the break,</p> <p>16 do you recall signing a claim form yet?</p> <p>17 <b>A. No, I do not.</b></p> <p>18 Q. Okay. Just the measurement form?</p> <p>19 <b>A. Yep.</b></p> <p>20 Q. Okay. Dates you have given for talking to Chris,</p> <p>21 talking to others, do you have those committed to</p> <p>22 memory or are those guesstimates or what?</p> <p>23 <b>A. Just a guesstimate.</b></p> <p>24 Q. And other than the employees that you mentioned, you</p> <p>25 had mentioned to me that you have contract workers at</p>	<p style="text-align: right;">Page 56</p> <p>1 deponents in the room. So I just want to make that</p> <p>2 clear that it applied to both.</p> <p>3 MR. VANDER VEEN: Sure. And we disagree</p> <p>4 with you on both, but --</p> <p>5 MR. MAGYAR: Right.</p> <p>6 MR. VANDER VEEN: -- we talked about that</p> <p>7 already.</p> <p>8 MR. MAGYAR: Yep. All right. That's it.</p> <p>9 Thank you.</p> <p>10 (Deposition concluded at 2:52 p.m.</p> <p>11 Signature of the witness was requested.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



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Page 57		Page 59	
1	HELENA AGRI-ENTERPRISES, LLC,	1	CERTIFICATE OF NOTARY
2	a Delaware limited liability	2	STATE OF MICHIGAN )
3	company,	3	) SS
4	Plaintiff,	4	COUNTY OF OTTAWA )
5	vs. Case No. 1:18-cv-00963-RJJ-RSK	5	
6	Hon. Robert J. Jonker	6	I, PEGGY S. SAVAGE, certify that this
7	GREAT LAKES GRAIN, LLC, a	7	deposition was taken before me on the date
8	Michigan limited liability	8	hereinbefore set forth; that the foregoing questions
9	company, et al.,	9	and answers were recorded by me stenographically and
10	Defendants.	10	reduced to computer transcription; that this is a
11		11	true, full and correct transcript of my stenographic
12		12	notes so taken; and that I am not related to, nor of
13	VERIFICATION OF DEPONENT	13	counsel to, either party nor interested in the event
14		14	of this cause.
15	I, Nicholas Boersen, having read the	15	
16	foregoing deposition consisting of my testimony at the	16	
17	aforementioned time and place, subject to the changes	17	
18	in the attached errata sheet, do hereby attest to the	18	
19	correctness and truthfulness of the transcript.	19	
20		20	
21		21	
22		22	PEGGY S. SAVAGE, CSR-4189, RPR
23		23	Notary Public,
24	Nicholas Boersen	24	Ottawa County, Michigan.
25	Dated:	25	My Commission expires: 7-13-25
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1	ERRATA SHEET		
2	PAGE LINE READS PAGE LINE SHOULD READ		
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